



Government of
Northwest Territories

EXECUTIVE COUNCIL

SUBMISSIONS HANDBOOK

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SECTION I: GENERAL

The Executive Council Submissions Handbook (the Handbook) sets out the structure, functions and responsibilities of officials in the Government of the Northwest Territories (GNWT), including the key principles of responsible government in the Northwest Territories (NWT). This information is intended to help public servants, politicians, and the public understand GNWT processes. Ministers or staff who would like further information or advice about the subject matter of this Handbook may consult the Secretary to Cabinet or their Deputy Minister. This document has been prepared by the Cabinet Secretariat.

AUTHORITY OF THE GOVERNMENT OF THE NORTHWEST TERRITORIES

The GNWT is established through the *Northwest Territories Act* (NWT Act), which is federal legislation enacted by the Parliament of Canada. The NWT Act establishes the position of Commissioner of the NWT and provides for an elected council, or Legislative Assembly. The Executive Council, or Cabinet, is established through the *Legislative Assembly and Executive Council Act* (LAEC Act), passed by the NWT Legislative Assembly. Acting under the formal authority of the Commissioner, the Legislative Assembly and Cabinet are the highest government authorities within the NWT.

AUTHORITY OF THE COMMISSIONER OF THE NORTHWEST TERRITORIES

The Commissioner of the NWT is appointed by the federal government and is responsible to the Minister of Northern Affairs Canada. While the Commissioner was once directly involved in administering the GNWT, their role is now largely official and diplomatic, similar to that of a provincial Lieutenant Governor. This evolution in the Commissioner's role has occurred as a result of the growth of responsible government in the NWT. In this context, "responsible government" means that politicians elected by NWT residents make government decisions, rather than having them made by federally appointed officials.

The Commissioner's approval is still needed for certain decisions of the Legislative Assembly and Executive Council, reflecting their formal authority as established in the

NWT Act. This is demonstrated when the Commissioner gives assent to bills passed in the Assembly, approves policies recommended by the Executive Council or makes regulations and appointments as set out in legislation. However, in keeping with the principles of responsible government, the Commissioner only acts on the advice of the Legislative Assembly, the Premier, or on the advice of a responsible Minister as provided in legislation.

LEGISLATIVE AUTHORITY

In our system of government, the Legislative Assembly is both the legislative branch and the pre-eminent institution of democratic accountability. Clear ministerial accountability to the Legislative Assembly is fundamental to responsible government, and requires that Ministers provide the Legislative Assembly with the information it needs to fulfill its roles of legislating, approving the appropriation of funds and holding the government to account.

The NWT Act gives the Legislative Assembly the authority to pass legislation for the NWT. The Assembly's law-making jurisdiction is limited to specific areas that are identified in the NWT Act. Some of these areas of jurisdiction are:

- taxation for territorial, municipal or local purposes;
- property and civil rights in the NWT;
- justice;
- education;
- hospitals (i.e., health care);
- preservation of game and management of timber (i.e., renewable resources); and
- expenditure of money for territorial purposes.

Many of these powers are similar to those of the provinces. These powers have evolved over time and Parliament has amended the NWT Act to reflect these changes. A complete list of the current legislative powers of the NWT Legislative Assembly is set out in the NWT Act.

Under responsible government, Ministers exercise executive authority on the basis that they have the confidence of the Legislative Assembly, which requires that they as Ministers be accountable to the Legislative Assembly for their actions.

To facilitate the operation of this responsibility, a set of Guiding Principles and Process Conventions are adopted by each new Legislative Assembly to guide how members of Cabinet and the regular Members of the Legislative Assembly (MLAs) will work together. Ministers must demonstrate respect and support for the legislative process. They should

place a high priority on ensuring that the Legislative Assembly and its committees are informed of departmental policy priorities, spending plans and management challenges, including by appearing before the committees of the Legislative Assembly whenever appropriate. Ministers are expected to seek the views of the regular MLAs and the committees of the Legislative Assembly on future plans and priorities, and to dedicate time to consulting and engaging the regular MLAs in order to earn their support.

Board of Management

The Board of Management (BOM) is established under the LAEC Act to:

- provide the services to members that BOM considers appropriate;
- administer the benefits to which members are entitled;
- administer the Legislative Assembly pension plans; and
- provide for the management and operation of the Office of the Legislative Assembly.

The BOM is composed of:

- the Speaker;
- two members of the Executive Council appointed on the recommendation of the Premier; and
- two regular MLAs, other than the Deputy Speaker.

The LAEC Act obliges the Assembly to appoint, by resolution at its first sitting, members and alternates to the Board of Management. The Premier also recommends the appointment of two members of the Executive Council to serve as alternate members on BOM. The Premier elect's recommendations with respect to the BOM appointment must be provided to the Office of the Clerk in time to prepare the motions for the first day of the first sitting of the new Legislative Assembly. The Premier elect may choose to advise the Cabinet elect of choices for BOM, but no Cabinet decision is required.

EXECUTIVE AUTHORITY

The LAEC Act provides that the Legislative Assembly will elect a Premier who will serve as the Chair of the Executive Council. The Executive Council is often referred to informally as Cabinet. The Legislative Assembly also elects several other MLAs to sit as Members of the Executive Council. The LAEC Act does not specify the size of the Executive Council; however, by convention, the Executive Council has been comprised of the Premier and six additional members.

Under the LAEC Act, the Executive Council is responsible for the overall management and direction of the executive government of the NWT, including matters of policy. Traditionally, this responsibility is divided among the Members of the Executive Council, who are appointed as Ministers and assigned specific portfolios. Being a Minister is different than simply being a Member of the Executive Council. The Legislative Assembly chooses members of the Executive Council, but Ministerial appointments are assigned separately by the Premier. Once appointed, Ministers are individually responsible for all matters arising within their portfolios.

There is a special role for one member of Cabinet known as the Government House Leader (GHL). The GHL is responsible for coordinating the conduct of government business in the Legislative Assembly. The GHL is also responsible for the development of the government's overall legislative agenda.

The GHL provides regular updates to Caucus on the government's intended House Business and legislative plans. The Legislation and House Planning division reports to the GHL. Though necessary to Cabinet operations, the GHL position differs from formal Ministerial appointments in that it is assigned by the Premier outside of legislation. Strictly speaking, the GHL is not a Ministerial portfolio.

The Financial Management Board (FMB) is established under the *Financial Administration Act (FAA)*. The FMB is responsible for the financial management and administration of government. Similar to the Executive Council, the FMB makes decisions of a government-wide nature in areas such as accounting and budgeting policies, financial administration requirements and program evaluation. The *FAA* states that the FMB is composed of the Minister of Finance as the Chair and other members as designated by the Executive Council, which has, in practice, included all members of the Executive Council. More information on the FMB and its responsibilities may be found in the *FAA* or the Financial Administration Manual.

Cabinet and the FMB each have their own decision-making authorities established in legislation, policy and directives. Like the Executive Council, the FMB is a decision-making body that may issue directives to the Public Service but remains itself subject to direction from the Executive Council. At times, a Minister may have a proposal that requires both Executive Council and FMB direction, in situations that involve significant and interrelated policy, financial and organizational issues. In such cases, a Minister may submit a joint Cabinet-FMB submission.

Premier

By virtue of office, the Premier has three major roles:

- 1) Head of Government, with responsibility for ensuring the overall administration of the GNWT as well as responsibility for the senior bureaucracy and the accountability of Deputy Ministers;
- 2) Chair of the Executive Council (Cabinet); and
- 3) Minister Responsible for the Department of Executive and Indigenous Affairs.

As the elected Head of Government, the Premier is responsible for ensuring the decision-making and priority-setting processes of government, as established under the LAEC Act.

In the position of Chair of the Executive Council, the Premier is responsible for managing Cabinet operations, determining Cabinet procedures, interpreting Cabinet conventions, and deciding which matters are brought forward for Cabinet's consideration and direction. Executive Council members are chosen by and serve at the pleasure of the Legislative Assembly. Although the Premier does not have authority to select or remove members of the Executive Council, the Premier has the sole authority to recommend the assignment or revocation of Ministerial portfolios to or from them.

The Premier is by virtue of the position also the Minister of Executive and Indigenous Affairs and is responsible for carrying out the mandate of that department. Additional information about the department of Executive and Indigenous Affairs can be found in the department's Establishment Policy.

Ministers

In addition to the specific roles and responsibilities associated with their respective portfolios, Ministers each have a responsibility for supporting and advancing the overall priorities and strategies of government.

Cabinet decisions are not final until Ministers have had an opportunity to discuss and agree upon the issue and no Minister can commit Cabinet to a particular course in advance of such a discussion. Ministerial responsibilities are discussed further below, under "Individual and Collective Responsibility of Ministers."

MINISTERIAL APPOINTMENT PROCESS

The LAEC Act provides that the "Commissioner, on the advice of the Premier, may appoint under the Seal, from among the members of the Executive Council, the Ministers of the executive government."

Each formal Ministerial portfolio assignment brings with it responsibility for specific statutes and policy (e.g., departmental establishment policies) and through those policies and statutes the Minister assumes exclusive powers, duties and responsibilities.

The Legislative Assembly may elect Members to Cabinet, but the Premier is under no legal obligation to assign every Member of Cabinet to a Ministerial portfolio. The Premier has sole authority to select Ministerial portfolios and recommend them to the Commissioner for assignment or revocation. The Premier is responsible for the appointment of the Government House Leader.

Cabinet has no legal authority to issue direction concerning portfolio assignments. Appointments that should be made by Cabinet motion (on the recommendation of the Premier) include the two Cabinet representatives on the Legislative Assembly Board of Management and the representative on the Standing Committee on Rules and Procedures.

Though Members of Cabinet are often appointed to more than one Ministerial portfolio, it should be recognized that each Ministerial portfolio is separate. Even when the same Member of Cabinet holds both the X and Y portfolios, the Minister of X cannot act on behalf of the Minister of Y. For example, the Minister of ECE has no authority to negotiate construction contracts and must defer to the Minister of Infrastructure – even when the same individual holds the two portfolios.

Formal Ministerial portfolio assignments should be distinguished from a decision to assign to a Member of the Executive Council lead responsibility in a particular subject area (e.g., lead responsibility for addressing homelessness). Such assignments, though often appropriate, should be limited to providing a coordination function. Assigning lead responsibility does not, in itself, create a legal portfolio, extend any formal authorities to the Minister in question, or release any other Minister from exclusive powers and responsibilities assigned through legislation and policy.

Formal Ministerial Portfolios with statutory authority are made by the Commissioner, on the recommendation of the Premier, under section 66 of the *LAEC Act*. These assignments comprise of the Deputy Premier and portfolios responsible for GNWT departments and agencies.

On the advice of the Premier, the Commissioner can also establish portfolios with no associated statutory authority, defined role, policy base, or associated budget. In the past, these assignments have included the portfolios Responsible for Persons with Disabilities; Seniors; and Youth, respectively.

Additionally, the Premier may, without creating a ministerial portfolio, direct a particular Member of Cabinet to assume lead responsibility for a particular file or initiative. Examples from previous Assemblies are the “Minister Responsible for Addressing Homelessness” and the “Minister Responsible for Public Engagement and Transparency.” Non-portfolio assignments are not portfolios created under legislation, and are not reflected in the official Cabinet record (e.g., minutes, Records of Decision). Assigning a Minister lead responsibility does not, in itself, extend any formal authorities to the Minister in question. Nor does assigning lead responsibility to one Minister release any other Minister from any powers and responsibilities assigned to them through their respective portfolios.

The Premier provides a letter to the Commissioner recommending ministerial appointments. Upon receipt of written instruction from the Premier, the Department of Justice prepares the official instruments of appointment and forwards them to the Commissioner for signature.

Members of Cabinet who have not been assigned ministerial portfolios continue to serve as members of Cabinet, but do not receive the ministerial indemnity or ministerial benefits such as temporary accommodations.

The Premier may elect to revoke, reassign or create new ministerial portfolios at any time (i.e., a Cabinet shuffle). As with the original portfolio assignments, the Premier prepares letters to the Commissioner recommending revocations and assignments or reassignments. Revocation and assignment of Ministerial portfolios cannot be retroactive.

Within 60 days after being appointed as a Minister, a Minister should ensure that their personal affairs are so arranged that there is no contravention of the *LAEC Act*. The Conflict of Interest provisions of the *LAEC Act* and the *Elections and Plebiscites Act* apply to all Members of the Legislative Assembly including Ministers.

Some conflict provisions specific to Cabinet include:

- Where the Premier has a conflict of interest in any matter relating to the performance of duties, the Premier must disclose the general nature of the conflict of interest to Cabinet and delegate to a Minister, designated by the Deputy Premier, the responsibility to perform the Premier’s duties in respect to the specific matter. The Premier must refrain at all times from attempting to influence any decision in respect of the matter.
- A Minister who has a conflict of interest in any matter relating to the performance of the duties of the Minister shall disclose the general nature of the conflict of interest

to Cabinet, delegate to a Minister designated by the Premier the responsibility to perform the Minister's duties in respect of the matter, and refrain at all times from attempting to influence any decision in respect of the matter.

- A Member of Cabinet who has a conflict of interest in a matter that is before Cabinet, or before a Committee of Cabinet, shall, if present at a meeting considering the matter, disclose the general nature of the conflict of interest and withdraw from the meeting without voting or participating in the consideration of the matter. This will be recorded in the minutes.
- In addition to the requirements outlined above, the Premier may set out further procedures as required from time to time.

COMMITTEES-OF-CABINET

Subject to confirmation by the Premier and Cabinet, Committees-of-Cabinet (COCs) are established to help facilitate the functioning of Cabinet. The purpose of the COCs is to coordinate government policy development and track progress on commitments made by the government to advance the priorities of the Legislative Assembly. COCs are not decision-making bodies; rather they identify issues, track progress, coordinate policy, and offer recommendations directly to Cabinet and to the FMB regarding the particular focus of the COC.

Each COC is supported by a Deputy Minister Committee, established by the Secretary to Cabinet. Cabinet has established operational procedures to facilitate clarity and consistency around COC operations, reporting and records.

All Cabinet Ministers have a standing invitation to attend meetings of each Committee-of-Cabinet. Because they were established by Cabinet Record of Decision, each COC established in a preceding Assembly continues unless a new Cabinet elects to rescind the relevant Records of Decision.

The effectiveness of the COCs is dependent upon the relationship between the COC and the relevant DM Committee. The COC process has helped to enhance the relationship between departments by allowing for a free dialogue to occur and opportunities to provide input on each other's Cabinet submissions, before Cabinet formally considers the proposal in a Cabinet meeting.

OTHER TYPES OF COMMITTEES

There are many options available for structuring committees, including:

Special Committees established and mandated by a particular Legislative Assembly to undertake a specific task and report during the term of that Assembly. Membership on Special Committees may be limited to Regular Members (MLAs) or include a mix of Regular Members and Members of the Executive Council appointed without regard to their respective portfolios. Special Committees report to the Legislative Assembly.

Joint Committees established by both a Cabinet and a Standing Committee. Joint Committees are not decision-making bodies, and should report to their respective principals and not the Legislative Assembly (i.e., to Cabinet and the relevant Standing Committee).

Ministerial Committees with Regular Members Appointed by Cabinet are in many respects similar to Joint Committees, except that they are established by and report only to Cabinet. Standing Committees or Caucus may be asked to nominate Regular Members to serve on those Committees but they are in fact Cabinet creations.

Ministerial Committees are established by Cabinet Record of Decisions (RODs) with a membership limited to Ministers. Appointments are by portfolio, as opposed to by individuals, and the mandates typically involve coordinating the development of significant governmental strategies or implementing significant cross-departmental initiatives. While the chairs of Ministerial committees may offer committee recommendations to Cabinet, they differ from Committees-of-Cabinet in that their primary mandate is coordination not offering recommendations to Cabinet. Ministerial Committees established by Cabinet ROD continue until the establishing ROD is revoked.

Premier's Committees may be established by the Premier as they see fit. Membership may include ministers, senior managers or a combination of both; but no Premier's Committee has included MLAs or staff below the ADM level. As suggested by the title, Premier's Committees report to the Premier and are most often mandates with specific, usually term-limited, oversight of a project or initiative. Premier's Committees differ from Ministerial Committees in that they are established independent of a Cabinet ROD and do not automatically continue from Assembly to Assembly.

GOVERNMENT ORGANIZATION

For the purposes of more effective accountability, administration and management, the GNWT is divided into several departments. Department is defined in the *Public Service Act* as “a division of the public service...designated as a department by the Commissioner in Executive Council on the advice of the Premier.” Each department is responsible to its Minister for managing GNWT programs and services and developing and implementing policy and legislation within its particular mandate.

The area of authority for each GNWT department is defined in its Establishment Policy. Establishment policies for all departments may be found on the GNWT website. The authority of secretariats, boards and territorial corporations may be found in policy, regulation or legislation, depending upon how each was established.

CENTRAL AGENCIES

Government departments may be categorized as either program departments or central agencies. Program departments are generally responsible for providing direct programs and services such as health care, education, highway maintenance, environmental protection, etc. These departments also play a primary role in developing and implementing policy in their mandated program areas.

Central agency departments play a key role in supporting the Premier and Executive Council as they shape overall government policy. Central agencies also support and advise the Executive Council in the Cabinet decision-making process.

The primary GNWT central agencies are the Department of Executive and Indigenous Affairs, the Department of Finance and the Department of Justice. The main responsibilities of each central agency are summarized below; complete details may be found in the Establishment Policy for each department on the GNWT website.

Department of Executive and Indigenous Affairs

The Department of Executive and Indigenous Affairs (EIA) is generally responsible for providing overall management and direction to the GNWT, including ensuring that all departments follow government legislation, policy, priorities and strategies in their operations. EIA is also responsible for ensuring the public is informed about government policies, activities, initiatives, programs and services and for representing the interests of the territorial government and residents of the NWT in Indigenous Rights negotiations and in relations with other governments. It also provides strategic advice on

political/constitutional development of the NWT and national and territorial Indigenous relations.

Cabinet Secretariat is a division within EIA that provides broad policy advice on priorities, strategies, policies and legislation to the Premier and Cabinet; and support for all Cabinet operations, policy and administrative support to the Committees-of-Cabinet and Deputy Minister Committees. This involves providing strategic advice and support for government-wide planning activities, and reporting on government progress toward advancing the Priorities of the Legislative Assembly. Cabinet Secretariat has ultimate responsibility for maintaining the security and integrity of the official Cabinet Record.

Legislation and House Planning is a division within EIA that provides broad policy advice to the Government House Leader, Cabinet, Ministers' offices and departments on the rules and procedures of the Legislative Assembly, and a full range of administrative services in support of Cabinet with respect to business in the Legislative Assembly. Legislation and House Planning maintains and oversees the GNWT's legislative process. Support is provided to Cabinet through assessments prepared on legislative initiatives, as well as procedural advice to Cabinet, Minister's offices and departments on the legislative process and the rules of the Legislative Assembly.

Department of Finance

The Department of Finance is generally responsible for obtaining the resources required to carry out GNWT policies and programs. The Department is also responsible for analyzing the economic aspects of fiscal policy and analyzing and making recommendations on tax and fiscal policy issues, as well as setting policy and providing advice on the management and administration of GNWT human resources.

Management Board Secretariat (MBS) is a division within the Department of Finance that supports the operations of the FMB, and is also responsible for the GNWT's budget, planning and reporting cycle. The work of MBS includes:

- Administering the business and budget planning processes and related operational commitments, including the corporate capital planning process, development of the Main Estimates, accounting and financial systems, controls, monitoring and reporting.
- Reviewing and making recommendations regarding departments' requests for additional funding.
- Facilitating the integration of Enterprise Risk Management (ERM) into departmental operational and reporting practices.

- Providing advice and support to departments across a range of evaluation-related activities including program design, performance measures and monitoring, evaluation and capacity building.
- Fostering consistency and accountability in the areas of program development, data collection and evaluation to ensure the development and delivery of effective, efficient programs and services that meet the needs of NWT residents.

Department of Justice (Attorney General Functions)

In its central agency role, the Department of Justice is generally responsible for providing legal advice and opinions to GNWT departments, boards and agencies and advising Cabinet on legal aspects of any issues brought before it. It is also responsible for conducting litigation on behalf of the GNWT and for preparing all territorial bills, regulations, statutory instruments and appointments.

MINISTERIAL STAFF AND THE PUBLIC SERVICE

In the performance of their departmental duties, Ministers receive support from two kinds of officials with distinct but complementary roles:

- ministerial staff provide advice that can address the political aspects of the Minister's functions but do not play a role in departmental operations; and
- public servants, reporting in a clear chain of command to the Deputy Minister, provide professional, non-partisan policy advice to Ministers and conduct departmental operations through the exercise of legal authorities flowing from the Minister.

Ministerial Staff

The ***Principal Secretary*** is Cabinet's top senior advisor among ministerial staff, primarily focused on providing the Premier and Ministers with a political perspective to help balance the policy, financial and operational advice provided by departments and central agencies.

The Principal Secretary reports directly to the Premier, works with all members of Cabinet and with Regular Members, and has frequent contact with elected northern and Indigenous leaders, federal officials, and counterparts in provincial and territorial jurisdictions.

The Principal Secretary also works closely with the Secretary to Cabinet, the Secretary of the FMB, Cabinet advisors, Legislative Assembly staff and Deputy Ministers. Though their roles do intersect and should complement each other, the Principal Secretary's position should not be confused with roles and responsibilities of either the Secretary to Cabinet or the Premier's Ministerial Special Advisor.

The responsibilities of the Principal Secretary to Cabinet are as follows:

- Provides political and strategic advice to the Premier, Ministers and Cabinet.
- Manages the federal engagement strategy on behalf of Cabinet.
- Provides day to day advice to the Premier and Ministers on issues of importance to the Minister Offices and the implementation of top government priorities.
- Plays a key role in maintaining and strengthening the relationships between the Premier, Ministers, Regular Members, NWT political leaders and Legislative Assembly staff.
- Liaises with federal, provincial, territorial and Indigenous government political staff.
- Works with the Secretary to Cabinet to support Cabinet operations and the integrity of the Cabinet process.
- Manages staff of the Ministers Offices.

Reporting to the Principal Secretary, the **Director of Strategic Operations** is responsible for providing strategic advice and expertise to the Premier, Members of Cabinet, and Cabinet Communications on the implementation of strategic processes that enable the Executive Council Office to achieve the policy and mandate commitments of the GNWT. The Director of Strategic Operations manages Executive Council staff and resources, maintains office processes that are timely, responsive and aligned to government priorities, initiatives, and issues, and provides advice on operational matters.

The Director of Strategic Operations' responsibilities are to:

- Develop, propose and implement operations of the Executive Council Office, the Premier and Ministers, Principal Secretary and Cabinet Communications.
- Act as a key point of coordination and alignment for the Executive Office.
- Lead key projects and relationship development.

- Develop and oversee essential processes and functions of the Executive Office and manage the Executive Office staff and budget.

Ministerial Special Advisors (MSAs) are charged with providing their respective Minister with strategic and political advice on major policy, program, and operational issues within that Minister's various portfolios. The MSAs are all staff of the Department of EIA, and each has a formal reporting relationship to the Director of Strategic Operations.

Though Ministers are consulted on the appointment, or reappointment, of their MSA, the Premier retains sole authority to recommend the appointment of MSAs to Cabinet. MSAs may be selected from within the public service and placed on a transfer assignment to a Minister's office or they may be hired from outside the public service on a term basis. In all cases, Cabinet issues formal direction (i.e., a ROD) on the appointment or reappointment of MSAs.

Cabinet submissions recommending the appointment of MSAs are prepared by the Cabinet Secretariat at the direction of the Premier. All MSAs, including those who may have served Ministers in the previous Legislative Assembly, are direct appointed to their term positions by the Minister Responsible for the *Public Service Act* on the recommendation of Cabinet.

Each MSA serves at the pleasure of their Minister, which means they can be removed from the position at any time. No MSA will be appointed to a term that extends more than a few weeks beyond the term of their respective Ministers.

Ministerial Executive Administrative Coordinators (EACs) are charged with providing their respective Minister with administrative support. The EACs are all staff of the Department of Executive and Indigenous Affairs and each has a formal reporting relationship to the Director of Strategic Operations.

Though Ministers are consulted on the appointment, or reappointment, of their respective EACs, the Premier retains sole authority to recommend EAC appointments to Cabinet. EACs may be selected from within the public service and placed on a transfer assignment to a Minister's office or they may be hired from outside the public service on a term basis. In all cases, Cabinet issues formal direction (i.e., a ROD) on the appointment or reappointment of EACs.

Cabinet submissions recommending the appointment of EACs are prepared by the Cabinet Secretariat at the direction of the Premier. All EACs, including those who may have served Ministers in the previous Legislative Assembly, are direct appointed to their term positions by the Minister Responsible for the *Public Service Act* on the recommendation of Cabinet.

Each EAC serves at the pleasure of his or her Minister, which means they can be removed from the EAC position at any time. No EAC will be appointed to a term that extends more than a few weeks beyond the term of their respective Ministers.

Public Servants

The **Secretary to Cabinet** provides direct advice and support to the Premier and Cabinet on all issues that may affect the government, and is the senior public servant in the GNWT.

Reporting directly to the Premier, the Secretary to Cabinet is usually appointed Deputy Minister of the Department of Executive and Indigenous Affairs and is responsible for the management, planning, operations and administration of the department.

The responsibilities of the Secretary to Cabinet are as follows:

- Provides coordination and leadership to the executive branch of government and the public service;
- Chairs the Senior Management Committee of Deputy Ministers, ensuring that the public service understands Cabinet direction and implements it in an effective, coordinated fashion;
- Participates on all deputy minister committees and the several deputy minister committees supporting the Committees-of-Cabinet;
- Works with the Secretary of the FMB and all Deputy Ministers to ensure and manage the policy, management and human resources required to implement Cabinet direction;
- Coordinates Deputy Minister performance planning and results reporting and assists the Premier in the Deputy Minister performance review process;
- Leads, coordinates and supports efforts to achieve the overall government agenda, ensuring that government initiatives support that agenda in a balanced manner;
- Addresses territorial, national and international issues that have cross-departmental implications; and
- Manages the Department of the Executive and Indigenous Affairs, including the planning, administration and other functions necessary to further the Department's mandate.

A member of the public service is appointed as **Secretary to the Financial Management Board**, conventionally the Deputy Minister of Finance. The Secretary to the FMB performs duties as may be assigned by the FMB, and appoints a Director of the Internal Audit Bureau.

The *Public Service Act* prescribes that **Deputy Ministers** are appointed by the Commissioner in Executive Council on the recommendation of the Premier, and it is the Premier who recommends to Cabinet the appointment and removal of Deputy Ministers.

The Premier is responsible for managing Deputy Minister performance including performance planning, results reporting, and performance pay. The Secretary to Cabinet assists the Premier with the Deputy Minister performance management process.

Deputy Ministers are responsible for the administration of Commissioner in Executive Council approved Policies and are accountable to the Premier for managing their departments in a manner that contributes to the achievement of overall government goals and objectives.

At the operational level, Deputy Ministers report to the Minister responsible for their department and are accountable for carrying out the policy direction of that Minister. As the Chair of the Senior Management Committee of Deputy Ministers, the Secretary to Cabinet provides advice to Deputy Ministers on overall Cabinet direction on corporate priorities.

Deputy Ministers are employed under senior manager's contracts signed by the Premier. The Premier retains the explicit and absolute discretion to terminate these contracts for any reason and without cause.

Assistant Deputy Ministers are excluded employees with a direct reporting relationship to their respective Deputy Ministers. Assistant Deputy Ministers are not "at pleasure" employees, are not employed under senior manager's contracts, and have no direct reporting relationship to the Premier, any Minister or the Secretary to Cabinet.

Assistant Deputy Ministers are responsible for providing subject matter expertise, advice and support to departmental senior management. As needed, Assistant Deputy Ministers also offer direct operational support to the departmental Deputy Ministers.

DECISION-MAKING IN THE GOVERNMENT OF THE NORTHWEST TERRITORIES

Decision-making within the GNWT includes both the broader activity of setting long-term goals and priorities for government, as well as the more immediate activity of making decisions about the day-to-day operation of government.

Establishing Long-Term Priorities and Strategies

In the consensus system of government practiced in the NWT, the Executive Council works with the regular Members of the Legislative Assembly to identify priorities for the four-year term of each assembly. These priorities are reflected in the legislation passed by the Legislative Assembly that establishes the legal framework within which GNWT programs and services are developed and delivered. The Legislative Assembly also plays a key role in establishing annual goals and priorities through its yearly review and approval of GNWT business plans and the GNWT's budget.

Members of the Legislative Assembly may also work with the Executive Council to help develop plans and strategies related to these goals and objectives. Through these plans and strategies, the GNWT can help NWT residents meet their needs for public programs and services and reach their goals for economic, political and social development. Members of the Legislative Assembly and/or the Executive Council may also publish their plans and strategies. These may outline broad plans of action in several areas or be focused on a specific area of need or activity.

Implementation and Day-to-Day Management of the GNWT

Working within the legal framework and budget approved for GNWT departments and agencies by the Legislative Assembly, the Executive Council is responsible for directing and overseeing the implementation of specific plans and the delivery of various programs and services designed to achieve identified goals and priorities. Ministers, acting either together or individually, make decisions about how to pursue GNWT priorities and take responsibility for carrying out their decisions. This includes providing direction to departments and generally overseeing the day-to-day operations of the GNWT through the senior management team.

Individual and Collective Responsibility of Ministers

Under the *LAEC Act*, Ministers are individually responsible for all matters arising within the departments under their direction. This means that each Minister has the authority to make policy decisions for their department(s) and to oversee the manner in which they are implemented and administered in pursuit of established goals and priorities.

In keeping with the principle of departmental responsibility, a Minister must never bind or attempt to make a commitment for another Minister in respect of the latter's ministerial responsibilities. Ministers should not be publicly asking one another to make commitments or give undertakings. Any such concerns and requests should be raised in Cabinet.

The concept of individual responsibility also requires each Minister to account for their actions and decisions (and those of their departments). Where questions arise about how a department has been using GNWT resources or delivering programs and services, the responsible Minister must be able to provide acceptable answers and explanations.

The Legislative Assembly has a primary role to play in publicly holding Ministers to account for their decisions and actions and this is regularly seen during Question Period. It also occurs when Ministers appear before Standing and Special Committees of the Legislative Assembly to explain the proposals and actions of their departments, such as business plans, main estimates and legislation. In certain exceptional situations, where Members of the Legislative Assembly are not satisfied with the answers provided by a Minister, they may choose to formally censure the Minister or even request their resignation.

Ministers are also collectively responsible and must account to the Legislative Assembly for the decisions they make together as the Executive Council.¹ All members of Cabinet, and their respective departments or government agencies, are collectively responsible for carrying out the government's policies as established by Cabinet. They are therefore expected to work in close consultation with their colleagues. This principle is the foundation of a key constitutional convention known as Cabinet solidarity. Policies presented to the Legislative Assembly and to the public must be the agreed policies of

¹ The convention of collective responsibility requires all Ministers to publicly support all decisions of Cabinet to maintain the confidence of the Legislative Assembly. On all major issues, Ministers must support one another to ensure that no government measure is defeated through lack of Cabinet support. An individual Minister may not speak against a particular Cabinet decision or publicly state that they were opposed to it. If a Minister feels they cannot stand behind a Cabinet decision, they may have to resign from the Executive Council.

Cabinet. Ministers cannot dissociate themselves from or repudiate the decisions of Cabinet or their Department colleagues unless they resign from Cabinet.

The Cabinet decision-making process is a key mechanism for achieving overall coherence and coordination in government policy. Ministerial responsibilities may overlap or have implications for other Ministers. The increasing complexity of issues means that policies and programs must be reviewed in relation to each other. Ministers also have responsibilities for representing the different perspectives and interests of their regions, and these inevitably cut across departments. Ministers need to work closely together to ensure that their individual proposals are considered in the broader objectives of the government's agenda.

Full consideration of different, sometimes opposing, points of view is to be encouraged if Cabinet is to make informed decisions. However, once Cabinet makes a decision, it is imperative that all Members assume collective responsibility for that decision. The power to vary or rescind Cabinet direction rests with Cabinet and with Cabinet alone.

These practices align with constitutional conventions and have been formalized in the GNWT's Cabinet submission and decision-making process. Official rules and procedures in this Handbook have been established to help ensure issues come to Cabinet in an efficient and orderly fashion and that decisions are made with the best available information at hand.

Collective Cabinet Decision-Making

The government position on any issue or question must be developed in Cabinet. All important issues or questions that may be construed as involving government policy should be considered by Cabinet and all Cabinet decisions must be supported by all Members of Cabinet.

While no NWT government has ever fallen as a result of losing the confidence of the Legislative Assembly, there are still some good reasons for continuing the convention of collective Cabinet decision-making. Some of these reasons include:

Allocation of Scarce Resources: As with most governments, the GNWT regularly faces demands to undertake more projects and offer more programs and services than it has the resources (time, staff and funding) to accommodate. As a result, political decisions have to be made about which activities will be pursued at any given time and which activities will be deferred. Decisions to pursue activities in one Minister's portfolio may mean that important activities in another Minister's portfolio have to be cancelled or delayed. Because Ministers are individually and collectively responsible to the Legislative Assembly for their actions and performance, it is essential that all Ministers have a say in

those decisions that may affect their individual abilities to undertake projects and activities in their own departments. These decisions are usually made during formal Cabinet meetings.²

Considering Multiple Perspectives: Each Minister brings a unique perspective to the Cabinet table based on their knowledge of their portfolio and their constituents, among other things. When they collectively review significant proposals in Cabinet, Ministers are able to identify and discuss any potential issues, including where the legitimate interests of specific constituencies may have been overlooked. When necessary, Cabinet may direct that proposals be revised and strengthened to better reflect NWT-wide interests and to ensure that Cabinet decisions do not critically interfere with the GNWT's ability to achieve its goals or create unnecessary political opposition. By allowing Ministers to consider multiple perspectives and interests when they make a decision, Cabinet meetings help ensure that decisions are of the highest quality and enjoy the broadest possible public and political support.

Confirming a Strategic Approach: Not all Cabinet decisions will receive unanimous public and political support. Sometimes Cabinet must make difficult decisions that will be unpopular with certain groups or individuals. In these instances, Cabinet meetings give Ministers the opportunity to consider and agree on strategies for explaining and defending controversial decisions. While an individual Minister will be responsible for announcing and implementing each decision, the convention of collective responsibility means that all Ministers need to be able to speak to Cabinet's position. By agreeing to a strategy in Cabinet, all Ministers can be prepared to lend their support to the decision in a consistent manner.

Communications Management for the GNWT

Effective and coordinated communications ensures that governmental priorities and decisions are clearly and accurately presented and that the GNWT presents a coherent message in all its communications that contributes to public understanding and confidence in the organization and its plans.

The GNWT Communications function has three distinct elements – Cabinet Communications, Corporate Communications and Departmental Communications – which must work together, based on sound and well understood policy, directives and practice, to deliver on the above definition. Cabinet Communications and Corporate

² While Cabinet has the primary responsibility for deciding which activities will be pursued on a political basis, the FMB has the responsibility for allocating the GNWT's financial resources to particular projects and activities in keeping with political priorities.

Communications work together particularly closely to advise on government-wide communications coordination and are together referred to as Central Agency Communications. All three elements of the communications function must be working together constantly within a clearly defined government-wide communications planning process that facilitates cooperation in the production of clear, timely and effective communications consistent with Cabinet direction and the GNWT's agenda.

Cabinet Communications

Based on political direction, Cabinet Communications sets communications priorities for government. The Director of Government Communications determines the strategic sequencing and prominence of government communications initiatives and ensures Cabinet direction is reflected in GNWT communications activities. The Director of Government Communications and staff provide advice and direction on strategic direction, content and messaging of communications and media relations and are the primary support for the communication needs of the Premier and Cabinet Ministers. Cabinet Communications is responsible for developing political communications strategies and products, an issues management system, and for providing public affairs and media relations direction and support.

Corporate Communications

Corporate Communications provides communications leadership, advice, management and service to GNWT. The Director of Government Communications is responsible for operationalizing the strategic communications priorities of the government. This happens through the coordination and approval of appropriate communications products and the provision of government-wide communications support services. As the head of a chain of functional command, it is the Director's responsibility to ensure consistency and efficiency across government and to manage the health and professional capability of the GNWT communications community.

Departmental Communications

Departmental communications staff is responsible for providing strategic and proactive communications advice and support to the Deputy Minister and senior management of their department. They are the primary executors and managers of operational communications activity within the GNWT. They ensure that government-wide communications priorities are appropriately reflected in those activities. Departmental communicators develop and implement departmental communications, and issue specific communications plans including associated tactics, channels and products. Their direct reporting relationship is within the management structure of their department as

determined by the Deputy Head but they take functional advice and direction from the Director of Government Communications.

SECTION II: CABINET MEETINGS AND PROCEDURES

The Executive Council (Cabinet) is responsible for the overall management and direction of the executive branch of government, including setting government policies and priorities, and providing overall direction to the public service. Cabinet meetings are the essential forum for the creation of informed consent among Ministers. It is at Cabinet meeting where motions are passed and decisions are made that set government policies and priorities which guide the public service in carrying out the operations of the GNWT.

Types of Cabinet Meetings

Cabinet meetings, including records of decisions, are entirely confidential. Cabinet confidentiality, or Cabinet Privilege, allows discussions to be as frank as possible, so that no Member need fear speaking their mind to Cabinet colleagues. Full consideration of different, perhaps opposing, points of view is to be encouraged if Cabinet is to make informed decisions. This privacy of the Ministers when they are deliberating in Cabinet is a long standing and necessary feature of Cabinet Government, and is reflected as well in all other Governments in Canada.³ The obligation to maintain Cabinet privilege extends to all members of Cabinet and the public service.⁴

There are two types of Cabinet meetings: Cabinet Meeting and Cabinet House Strategy.

Cabinet Meeting

Cabinet meets at the call of the Chair. The Premier approves an annual Cabinet Calendar which is distributed to all Ministers and departments, but the Premier is free to call additional meetings and to postpone or cancel scheduled meetings at any time.

³ In all jurisdictions in Canada, it is considered to be an offence under the law for a Minister to talk about the substance and nature of the deliberations in the Cabinet Chamber, or to “leak” Cabinet documents to the public or the media.

⁴ Cabinet, and only Cabinet, can waive Cabinet privilege. The obligation to defend Cabinet privilege is owed not only to Members of the current Cabinet, but also to Cabinet as a legal entity, to past and future Cabinets and to our system of Responsible Government.

Typically, there is a weekly Cabinet meeting while the Legislative Assembly is in session. When the Legislative Assembly is not in session, there is typically a cabinet meeting every three weeks.

The Cabinet quorum has previously been set, by Cabinet, at the Chair plus three (3) Members of the Cabinet. By convention, the Cabinet agenda is divided into several major categories and typically includes the following items:

- Approval of Agenda
- Approval of Previous Minutes
- Declaration of Conflicts of Interest
- Discussions and Briefings
- Decision Items
- Direct Appointments
- Legislation (including Legislative Proposals, Draft Legislation, and other related submission)
- Information Items
- Committee-of-Cabinet Meeting Summaries
- Other Information (including calendars, intergovernmental meetings and events, and other related items)
- Communications Considerations
- Items for future consideration
- In-Camera Discussions
- Adjournment
- Other headings as required from time to time

A “Cabinet Package” is prepared by Cabinet Secretariat for each scheduled Cabinet meeting and distributed electronically two days before the Cabinet meeting. Cabinet Packages contain all the material submitted, less any cover letters, by the sponsoring

Minister for items on the agenda prior to the deadline for submissions. It also includes any assessment reports prepared by central agencies relevant to the submission.

Cabinet packages are classified as “confidential” and their distribution is limited to Members of Cabinet and a limited number of Cabinet advisors. Ministers may retain their copies of Cabinet packages for the term of their appointment to Cabinet.

Cabinet House Strategy

Cabinet House Strategy meetings are typically held every morning (Monday-Friday) during sittings of the Legislative Assembly to prepare Ministers and Cabinet for the day’s business in the House. The meeting is chaired by the Premier (with support from the Government House Leader) and all Ministers are required to attend.

A Cabinet House Strategy meeting is not a formal Cabinet meeting. If formal Cabinet decisions are required, a Cabinet House Strategy will switch into a special Cabinet meeting to make those decisions. Usually this is done to consider legislative proposals, draft bills or other items directly related to government House business.

By existing Cabinet direction, a number of documents go through Cabinet House Strategy before they are taken to the House. These include:

- Ministers’ Statements
- Opening Remarks to Department Budgets
- Responses to Committee Reports (if not already approved by Cabinet)
- Responses to Motions (if not already approved by Cabinet)
- Returns to Questions
- Opening Remarks to Bills (controversial only)
- Tabled Documents (controversial only)

The agenda and materials are prepared by the Director, Legislative Affairs and House Planning in consultation with the Government House Leader, the Clerk’s Office, the Principal Secretary, the Secretary to Cabinet and/or other Cabinet advisors and Minister’s Offices as required. The Cabinet House Strategy binder is distributed electronically to Ministers and Cabinet Advisors early in the evening prior to the meeting.

THE FIRST CABINET MEETING

The Premier-elect will officially assume the office following a formal motion of appointment in the Legislative Assembly. The Members of the Executive Council will also assume the office of Member of the Executive Council following a formal motion in the Legislative Assembly; but Ministerial portfolios will not be assigned to Cabinet Members until the Premier makes those decisions.

In the period between the Premier's formal appointment and the appointment of Ministers, the Premier has authority to exercise any legislative power or duty assigned to any Minister under territorial legislation.

The Premier is not obliged to assign Ministerial portfolios by a certain date and is not obliged to assign all portfolios at the same time. In past Assemblies, Premiers have generally taken four to seven days to finalize their selections and action the Ministerial assignments.

Given that there are no Ministers at the first Cabinet meeting, only the Premier can sign formal Cabinet submissions and the meeting agendas are usually limited to:

- advising the Members of Cabinet of the Premier's announcing of Ministerial appointments;
- making, or revoking, appointments to the Premier's team, senior management or Ministerial staff (if any);
- advising of the Premier's intentions with respect to the Board of Management appointments; and
- reviewing the draft Cabinet and Planning and Operations Committee-of-Cabinet meeting schedule.

ROLE OF THE CHAIR

The Premier is the Chair of Cabinet meetings. In this role, the Premier:

- decides when Cabinet shall meet;
- may take submissions to Cabinet;
- may approve additions to the draft agenda following the 10-day deadline;

- is neutral and does not advocate a particular position and does not move or second motions;
- may step down and turn over the chair to another member to speak to a submission they sponsored as Premier or Minister;
- may only vote if there is a tie;
- sign all Records of Decisions (RODs) and Orders in Executive Council (OECs) and, following Cabinet ratification, all Cabinet minutes; and
- must respect Cabinet confidentiality and solidarity.

ROLE OF MEMBERS

The role of the Cabinet Members at a Cabinet Meeting:

- must respect the authority of the Chair;
- may make submissions to Cabinet;
- may fully engage in discussions or debates at the Cabinet table;
- may move or second motions;
- may participate in any vote before Cabinet; and
- must respect Cabinet confidentiality and solidarity.

OTHER ATTENDEES IN CABINET MEETINGS

Senior Cabinet advisory staff regularly attend Cabinet meetings. However, only the Secretary to Cabinet and the Principal Secretary sit at the table with the Members of Cabinet.

Additionally, a Minister, on the approval of all Members of Cabinet, may invite witnesses to make presentations, brief Cabinet, or answer Member's questions. Witnesses are almost always members of the public service and bound by an oath of secrecy in that capacity.

The Cabinet meeting goes off-the-record when witnesses attend. Once all questions have been exhausted, witnesses should be asked to leave the meeting. Witnesses are normally not present for Cabinet votes or debates.

A meeting of all Ministers may be convened with one or more groups from outside the public service, but such meeting should be distinguished from official Cabinet meetings. Cabinet almost never meets with individuals or groups outside the public service. Groups and individuals outside the public service are not bound by the same oaths of secrecy and are free to discuss meeting deliberations and attribute comments.

CABINET SUBMISSIONS

The formal Cabinet submission process helps facilitate Cabinet decision-making. This process helps ensure that Ministers' time is used efficiently, they are not asked to make unnecessary decisions and they have all the information they need to make informed decisions.

Only Ministers may make formal submissions to Cabinet. All formal Cabinet submissions must be signed by a sponsoring Minister or another Minister on behalf of the sponsoring Minister. Where advisable, a Cabinet submission may be developed by two or more departments for the signature of two or more Ministers. A final draft of the document is submitted by the originating department(s) for the approval and signature of the responsible Minister or Ministers.

These practices have been formalized in the GNWT's Cabinet submission and decision-making process. Official rules and procedures have been established to help ensure issues come to Cabinet in an efficient and orderly fashion and that decisions are made with the best available information. Standard formats for various types of Cabinet submissions form a key component of the submission process. These formats and suggestions for completing them are discussed later in this manual.

WHEN TO SEEK CABINET DIRECTION

All Members of the Executive Council share, to varying degrees, collective responsibility for the management of government departments, boards and agencies.

Generally, Ministers may carry out most activities related to their portfolios on their own authority and in accordance with established legislation and policies. However, there are

a number of situations in which Ministers must seek Cabinet direction before making certain decisions or taking certain actions. The convention of collective responsibility also means that there are times when a Minister should, at a minimum, advise the Executive Council of their plans before those plans are implemented, even when specific Executive Council direction is not required.

Certain decisions fall outside of an individual Minister's authority and can only be authorized by Cabinet or the FMB. Ministers are obliged to seek Cabinet or FMB direction when:

- there is a legal requirement to do so;
- a requirement to do so is established in Commissioner in Executive Council approved policy; and
- previous Cabinet or FMB direction requires the Minister to do so.

Some examples of decision items that must be submitted to Cabinet include:

- proposals to establish, amend or repeal legislation;
- approval of drafts bills for introduction in the Legislative Assembly;
- proposals to recommend to the Commissioner the establishment, amending or repeal of Commissioner in Executive Council-approved policies;
- proposals to establish, amend or repeal Cabinet Operational Guidelines;
- proposed revisions to any item previously approved by Cabinet (e.g., negotiating mandates, terms of reference, etc.);
- actions requiring Cabinet authority under legislation; Cabinet-approved policy, rules or guidelines; or established process conventions, including:
- appointments to various statutory positions and boards (see the specific legislation for details);
- approval to negotiate contracts;
- recommendations for direct appointments to the public service; and
- specific actions or decisions that Cabinet has directed be brought back to them for further consideration and/or approval.

Examples of when a Minister should consider the submission of a formal Discussion Paper, Ministerial Initiative or Information Item advising the Executive Council of their plans to make certain decisions or to take certain actions, or *may* consider seeking Cabinet direction, include:

- any matter which involves the collective responsibility of all Ministers, such as:
 - major changes in a department's programs or services or the way they are delivered;
 - proposed actions or strategies that will have a significant impact on the public (e.g., health care reform) or other departments (e.g., social agenda, disabilities framework);
 - proposed GNWT position statements and communications on issues of territorial significance or in which there is widespread public interest (e.g., devolution negotiations, pipeline development, mine reclamation, etc.);
- significant changes to the internal structure or organization of a department, board or agency;
- consultation, engagement or communications activities likely to attract significant public attention or to create expectations that might inappropriately restrict future options;
- offers to Standing Committee for briefings on matters not yet reviewed or considered by the Executive Council;
- documents to be tabled in the Legislative Assembly or presented to Standing Committees that have not been previously provided to the Executive Council (this does not normally include annual reports and other documents of that type);
- board appointments that can be made under a Minister's individual authority (i.e. do not require Executive Council approval);
- potentially controversial matters that are entirely within the Minister's authority, but for which they would like to seek Cabinet advice; and
- situations where there is an intention to vary or reverse an action that has been the subject of a previous Information Item.

The Minister is obliged to submit a formal Information Item to the Executive Council when the Executive Council has:

- issued specific direction to the Minister to return with further information regarding a particular matter (e.g., through a Record of Decision); and
- established a convention or guidelines governing the actions in question (e.g., Cabinet's Appointment Procedures).

There may be other situations in addition to this list when a Minister may need to seek Cabinet direction. Please consult with Cabinet Secretariat when those situations arise.

SUBMISSION PROCEDURES

Cabinet Secretariat manages the Cabinet submission process on behalf of the Executive Council. Formal Cabinet submissions procedures have been developed to ensure that meetings are well organized and that there are complete and accurate records kept of all Cabinet meetings. These procedures apply to all Cabinet submissions as detailed below.

A Minister directs their department to develop a submission for Cabinet's consideration. Depending on the specific issue, the submission might be a Discussion Item, Legislative Proposal, Decision Paper, Options Paper, Ministerial Initiative or Information Item.

Where a submission concerns two or more departments, the responsible Ministers may choose to prepare a joint submission to be signed by each of them.

Departments submit a final draft of the submission to their Minister for signature. It is important to note that individual Ministers may have different requirements concerning how far in advance they would like to receive draft submissions from their departments.

Once signed by the Minister(s), the signed submission and all attachments are submitted by the Minister's office to the Deputy Secretary to Cabinet using the process outlined in the Cabinet Secretariat Registrar's "Electronic Cabinet Submission Standards". The Minister may wish to include a covering letter with the submission explaining any special handling considerations. The Deputy Secretary to Cabinet will not accept submissions directly from departmental staff.

The Deputy Secretary to Cabinet must receive signed submissions for Ministerial Initiatives, Decision Papers, Legislative Proposals, Options Papers, and Discussion Papers no later than ten working days before the next scheduled Cabinet meeting if they are to be considered at that meeting. Information Items may be submitted five working days

before the next scheduled Cabinet meeting. Submissions received after this deadline has passed will be held for the following Cabinet meeting.

CABINET AGENDAS

Cabinet Secretariat prepares a draft agenda for the upcoming Cabinet meeting shortly after the submission deadline has passed. All submissions, apart from Legislative Proposals, that met the deadline are usually placed on the draft agenda, which is then given to the Premier for review and approval. By agreement with the Legislative Assembly, Standing Committee reviews all Legislative Proposals before Cabinet approves them. As this process may take six weeks or more, Legislative Proposals are not automatically placed on the next Cabinet agenda for decision, but as a matter of course Legislative Proposals are included for the information of Cabinet to ensure that they are aware that the Legislative Proposal has been shared with Standing Committee. Legislative Proposals are put on a future Cabinet agenda determined in coordination with Legislation and House Planning, following conclusion of the Standing Committee review period.

When the Premier approves the draft agenda, Cabinet Secretariat prepares a meeting package. This package includes the agenda, signed submissions and their assessments and any previous minutes prepared for Cabinet approval. The meeting package is distributed to all Ministers and those senior officials who regularly attend Cabinet meetings as advisors (e.g., Secretary to Cabinet, Secretary to the FMB, Assistant Deputy Minister (Attorney General) or Deputy Minister of Justice, and Deputy Secretary to Cabinet) two days before each meeting. The distribution of Cabinet Packages is limited due to the confidential nature of the document.

WALK-INS

In extraordinary circumstances, a Minister may wish to have a submission considered at a Cabinet meeting after the ten-day submission deadline for that meeting has passed. As Chair, it is up to the Premier to decide whether a late submission can be added to an already-prepared agenda.

Should a Minister wish to make a submission after the deadline has passed, they must complete a late submission form to request the Premier's permission to bring that item to the next Cabinet meeting. The Minister must explain why a decision is urgently required, why the submission was not able to be provided by the deadline, and the significance of the issue, including the potentially negative consequences of deferring the submission to the next scheduled meeting.

Prior to review by the Premier, the request must be sent to the Deputy Secretary to Cabinet, who will assess the request and make a recommendation to the Premier whether or not to approve.

If the Premier approves the Minister's request, the submission may be brought to the upcoming meeting. Submissions brought to Cabinet in this manner are often referred to as "walk-ins." If the Premier has approved the Minister's request prior to the completion of the electronic meeting package, the Deputy Secretary may include it in the package. If it is received after the meeting package is completed, the Deputy Secretary will distribute the "walk-in" to Cabinet electronically as a separate document.

While unforeseen circumstances sometimes make it necessary for a Minister to immediately seek Cabinet's direction, walk-in submissions should be avoided whenever possible. The short time frames that typically accompany walk-ins often mean that other Ministers will not have sufficient time to thoroughly review them before the meeting or to receive all the information they need to make the best-informed decision possible. Under no circumstances should departments use the walk-in procedures in an attempt to accommodate internal workload issues and time demands.

WITHDRAWING, DEFERRING OR REPLACING SUBMISSIONS

Occasionally, a Minister may want to revise, defer or withdraw a submission that has already been signed and sent to the Cabinet Secretariat for the next meeting. Often this is the result of new developments or events that make the information in the submission outdated or substantially affect the proposals made in the submission. In these instances, the Minister may follow these steps to have a submission withdrawn, revised or deferred.

Before the Cabinet meeting package has been distributed, the responsible Minister may write directly to the Deputy Secretary to Cabinet and request that a signed submission be withdrawn or deferred to another meeting. If the submission needs to be revised, the Minister may write to the Deputy Secretary to Cabinet and ask that the original submission be replaced and provide a revised signed submission. Regardless of which part of the submission is being replaced (the submission itself or an attachment), the full revised submission should be sent to the Deputy Secretary to Cabinet.

If the Cabinet meeting package has already been distributed, the responsible Minister may request that a submission be withdrawn or deferred from the draft Cabinet agenda before it is approved at the beginning of the Cabinet meeting. Submissions may also be

withdrawn or deferred following Cabinet discussions and deliberations, and such withdrawals or deferrals will be noted in the minutes of that meeting.

Note: When a submission has been deferred, it means that that same submission will be considered at a later Cabinet meeting. If the submission needs to be revised, the responsible Minister(s) must send a revised submission to the Deputy Secretary to Cabinet. Normal submission deadlines apply to the revised submission.

CABINET SECRETARIAT ASSESSMENTS

Cabinet Secretariat prepares written assessments for most submissions requiring a decision, apart from Legislative Proposals and draft bills, which are assessed by the Legislative Initiatives Committee and Legislation and House Planning. The purpose of the assessment is to briefly summarize the main points of each submission and to draw attention to any important issues that Cabinet may want to keep in mind when it is making its decision.

Assessments are provided to Ministers as part of the Cabinet meeting package. They are often referred to as “pinks” because they are written on pink paper to distinguish them from the Ministers’ submissions (also known as “whites”). Copies of the assessments are provided to relevant Deputy Ministers, Policy Directors and Ministerial Special Advisors following the distribution of Cabinet meeting packages.

The following are some of the factors that Cabinet Secretariat considers when assessing a Cabinet submission:

- Does the proposal comply with any existing Cabinet and FMB direction on the issue?
- Does the proposal comply with the requirements of all relevant legislation, regulations, policies or guidelines?
- Is the proposal consistent with current government priorities, objectives and commitments found in such documents as: the Premier’s Sessional Statement, the Budget Statement, the Business Plan and Main Estimates, published strategy documents and other plans and government commitments in the Legislative Assembly or the media?
- Has the Legislative Assembly or its Committees been engaged and made any comments or recommendations related to the issue?

- Have all potentially affected or interested groups and individuals – including Indigenous governments, rights-holding Indigenous organizations, community governments, other Indigenous organizations, or any stakeholders, such as special interest groups, non-government organizations, professional associations, unions, and the public in general – been engaged and have the engagement results been reported?
- Has a section 35 consultation assessment been completed to determine if the GNWT's legal duty to consult has been triggered with Indigenous governments and rights-holding Indigenous organizations where the GNWT decision may have the potential to adversely impact asserted or established Aboriginal and/or Treaty rights? Have the results of the assessment or the results of the section 35 consultation been reported?
- Are any financial, social or legal implications identified and addressed?
- Does the information presented support the Minister's conclusions and recommended decision?
- Are there any gaps in information or potential issues that have not been addressed in the submission?
- Will the proposal have an impact on any other departments, and if so, have they been engaged and what issues have they raised?
- Are there any issues related to historic Treaties or modern land, resources, and self-government agreements?

Submissions are also assessed for potential communications issues by Corporate Communications, who have specific responsibility in the *Communications Policy 11.21* for reviewing and advising on the communications components of Executive Council submissions.

Each assessment also includes Cabinet Secretariat's recommended decision. Depending on the issues raised in the assessment, the recommendation may be the same as the recommendation in the Minister's submission or the assessment may recommend a different decision.

Cabinet Secretariat frequently engages with other central agencies and departments in preparing its assessments if the issues involved require particular knowledge (e.g., legal, financial, land claims, etc.). Cabinet Secretariat has the authority to contact other central agencies and departments to gather additional information that Cabinet Secretariat believes will be important to include in the assessment that is prepared for Cabinet's consideration.

Departments are encouraged to discuss planned submissions with the Cabinet Policy Advisor in Cabinet Secretariat assigned to their department or, in the case of Legislative Proposals and draft bills, with the Director, Legislative Affairs and House Planning. The Cabinet Policy Advisor may be able to identify potential issues or information gaps in the submission that may be addressed before the Minister signs it. As issues that are not adequately addressed in the submission will likely be raised in the pink, engaging with Cabinet Secretariat in advance may lead to more straightforward assessments and consensus on the recommended decisions.

LEGISLATIVE INITIATIVE ASSESSMENT

Legislative proposals and draft bills submitted for Cabinet approval are assessed by Legislation and House Planning with input from the Legislative Initiatives Committee (LIC). LIC is chaired by the Director, Legislative Affairs and House Planning and includes members from Cabinet Secretariat, the Department of Finance, and the Department of Justice. The broad range of perspectives represented by LIC members helps to ensure that any significant issues are identified and resolved before legislative proposals or draft bills receive Cabinet approval. LIC also draws upon other expertise as required in the preparation of assessment reports (e.g., obtaining legal opinions from the Department of Justice's Legal Division, obtaining advice on risk management from the Department of Finance, obtaining communications advice from Corporate Communications, etc.).

Similar to Cabinet Secretariat assessments in format and purpose, assessments of legislative proposals provide Cabinet with a summary of the submission and identify any potential issues it may wish to consider in making its decision. Legislation and House Planning considers many of the same factors as the Cabinet Secretariat in the preparation of the assessment report, and there is a special emphasis on legislative policy issues (e.g., cohesion with overall GNWT statutory framework, costs of enforcement, etc.). Each assessment for Legislative Proposals also includes a recommended decision that may or may not reflect the Minister's recommendation, depending on the issues identified. The recommended decision of a Legislative Proposal will also formally establishing a target date for the introduction of a bill in the Legislative Assembly. Finally, the assessment report includes an attachment of the formal correspondence received from the relevant Standing Committee that outlines its feedback on legislative proposals and draft bills.

Assessments are also prepared on draft Bills. In this context, the draft Bill is effectively the submission that is assessed, and it is assessed against the original Legislative Proposal. If a draft Bill diverges from an approved Legislative Proposal, the submission would

include a Decision Paper, and in that case, the assessment is prepared with reference to both the Bill and the Decision Paper.

There are a few differences between legislative initiatives and other Cabinet submissions worth noting, as follows:

- The development of legislative initiatives is a two-stage process. Cabinet first considers the concept and policy rationale as outlined in the legislative proposal and then later considers the specific instrument (i.e., a draft bill) that would create a new law or change the existing law.
- Cabinet approval of a Legislative Proposal and, eventually, a draft bill is only a part of the process and are requisite steps leading up to the Government's introduction of a bill in the Legislative Assembly. Through its own separate processes, the Legislative Assembly will ultimately decide if a new law is to be enacted or changes are to be made to an existing law.
- Unlike most other decision items where Cabinet approves a decision or decisions contained in a document, when Cabinet approves a Legislative Proposal or Bill, the entire document is approved, which means that wording must be precise.

Departments are encouraged to contact the Director, Legislative Affairs and House Planning in the Department of Executive and Indigenous Affairs, when developing legislative proposals and other submissions concerning legislation. Departments are also strongly urged to request (through the Director, Legislative Affairs and House Planning) informal LIC review of draft legislative proposals. The LIC may be able to help identify any issues or concerns that can be addressed before the submission is finalized, signed by the Minister and submitted to Cabinet.

JOINT CABINET-FMB SUBMISSIONS

Cabinet and the FMB each have their own decision-making authority established in legislation, policy and directives. At times, a Minister may have a proposal that requires both Cabinet and FMB direction. In these instances, a Minister may wish to make a joint Cabinet-FMB submission. The following are some of the situations in which a joint Cabinet-FMB submission may be appropriate:

- a submission addresses significant and interrelated policy, financial, organizational or human resource issues requiring both Cabinet and FMB direction;

- an initiative requires the approval of both Cabinet and FMB as established in legislation, Cabinet-approved policy or FMB directive;
- a submission requires immediate direction from both Cabinet and FMB and the submission presents sufficient background and information for both Cabinet and FMB to make an informed decision; and
- Cabinet or FMB has previously directed that the Minister return with a joint Cabinet-FMB submission.

Note: Where it is judged more appropriate to make two separate submissions as opposed to one joint submission, each submission should reference that there is a concurrent FMB or Cabinet submission or that a subsequent FMB or Cabinet submission will be brought forward at a later date.

The joint Cabinet-FMB submission uses the same format as an FMB submission but must clearly indicate that it is a joint submission. The submission process is similar to the process for a Cabinet submission, except electronic copies must be sent to both the Deputy Secretary to Cabinet and the Chair of the FMB. Normal Cabinet and FMB submission deadlines apply.

Cabinet Policy Advisors and FMB Analysts work together to prepare a joint assessment on joint Cabinet-FMB submissions.

MEETING FOLLOW-UP

As soon as possible after a Cabinet meeting, the Cabinet Secretariat informally advises departments of any decisions Cabinet made on each of their Minister's submissions. At this time, departments will also be advised of any additional considerations or factors that may have influenced Cabinet's decision. A department may also wish to engage with their Minister's office to find out how a particular matter was decided at Cabinet.

Departments may begin to implement Cabinet direction as soon as they have been advised of Cabinet's decision. However, as Cabinet's decision may differ from the decisions recommended in both the Minister's submission and the Cabinet Secretariat assessment, it is important that departments carefully note any additional considerations or direction before taking action. In any event, the written Record of Decision is the final word on the matter, taking precedence over any prior communication of Cabinet results.

Some of the key terms Cabinet Secretariat uses in communicating Cabinet results to departments and their meanings include:

- Approved as per the submission (the white) - Cabinet has accepted the recommended decision proposed in a submission;
- Approved as per the pink – Cabinet has accepted the recommended decision proposed in the Cabinet Secretariat assessment report;
- Not approved - Cabinet has not approved a decision recommended in a submission;
- Deferred – a Minister has asked that their submission be considered at another meeting. A deferred submission may not be revised before being reconsidered by Cabinet. If revisions are required, the submission must be replaced;
- Withdrawn – a Minister has asked that their submission be withdrawn, either before or during the Cabinet meeting;
- Accepted – refers only to Information Items and indicates that Cabinet has not objected to any of the information in it. It does not mean that Cabinet has approved the Information Item or authorized any action based on it.

RECORDS OF DECISION

Cabinet direction is formerly recorded in and communicated through *Executive Council Records of Decision*, commonly referred to as RODs. Following each Cabinet meeting, Cabinet Secretariat prepares a formal ROD to record the details of each decision. Each ROD has a unique number to identify it and is signed by the Secretary to Cabinet and Premier.

Cabinet direction is always specific and positive – specific Ministers are given explicit direction to undertake identifiable actions. Cabinet does not issue RODs to direct a Minister not to do something or to record negative decisions where it has not approved a proposal or recommendation.

Each ROD incorporates a specific distribution list which includes the sponsoring Minister and his or her Deputy Minister, the Premier, any Ministers or Deputy Ministers directly effected by the direction and Cabinet advisors responsible for assessments. RODs are signed by both the Premier and the Secretary to Cabinet and are classified “confidential”.

The ROD, and any attachments, is the full and complete record of the direction Cabinet has given. Only those actions or directions noted in the ROD have been approved by Cabinet. Where a ROD is silent on a proposal or recommendation in a submission or pink, it means that Cabinet has not approved the proposal or recommendation.

RODs stand on their own and do not usually make reference to another document. In some instances, another document may be attached to a ROD, such as a contract or agreement a Minister has been authorized to sign or a detailed plan a Minister has been directed to undertake. These attachments form part of the ROD. Approved legislative proposals and bills are always attached to the ROD. On rare occasions, where a ROD must refer to a document that is not attached, that document is identified as specifically as possible.

Cabinet does not issue direction to departmental officials directly. This is because civil servants are not directly accountable to Cabinet, but are primarily accountable through their Deputy Minister to their own Minister. As a result, Cabinet only issues direction to Ministers, who are directly accountable to Cabinet. When a ROD gives direction to a Minister, it is generally understood that staff in the Minister's department (or in the case of the Premier, the Department of Executive and Indigenous Affairs) with responsibility for the particular subject area are largely responsible for implementing that direction.

ORDERS IN EXECUTIVE COUNCIL

Many Acts require the Commissioner-in-Executive Council to approve particular government actions or documents. "Commissioner-in-Executive Council" refers to the Commissioner of the NWT acting on the specific and explicit recommendation of Cabinet. Orders in Executive Council (OECs) are a special type of Cabinet record produced to reflect and document the making and acceptance of such recommendations. An OEC is similar in most respects to a ROD, but in an OEC, Cabinet does not issue direction but makes recommendation to the Commissioner. That recommendation is followed by the Commissioner.

OECs are signed by the Premier, the Secretary to Cabinet, and the Commissioner. OEC distribution is similar to that of a ROD and security classification is "confidential".

SECURITY OF CABINET RECORDS

All information contained in Cabinet materials being considered by Cabinet or Committees of Cabinet prior to a decision being made is privileged information. Discretion should be exercised in divulging information contained in such materials. It is the responsibility of all Members of Cabinet, Ministerial Staff and members of the Public Service to properly safeguard Cabinet and Cabinet Committee documents.

RODs and OECs are confidential Cabinet records that are specifically protected by the *Access to Information and Protection of Privacy Act (ATIPP Act)*. They are printed on dark

red paper to prevent unauthorized duplication which could compromise the protection they have under the *ATIPP Act*.

Copies of signed RODs and OECs are distributed to Ministers, departments and central agencies affected by that decision. Even when distributed to departments, RODs and OECs remain Cabinet records and must be stored securely and must not be duplicated in any form.

Records of previous Cabinets, including official meeting minutes, may not be shared with Ministers of the current Cabinet, even if they were also members of the previous Cabinet. Staff will continue to have access to RODs from previous governments and may summarize the direction for the purposes of briefing their current Minister. However, they may not reveal the ROD number and must not reproduce any part of the ROD directly. When referring to the direction of previous governments in preparing Cabinet submissions, care must be taken to ensure that these rules are followed.

Cabinet privilege notwithstanding, the Supreme Court of Canada has ruled that there is no absolute privilege in legal proceedings, even for the highest level of government documents or discussions. Rather, each case must be decided on its own facts. Considerations for assessing claims of Cabinet privilege should include:⁵

- The nature of the claim and potential implications to the functioning of government;
- The level of decision-making the documents pertain to;
- The nature of the policy or contents of the documents;
- The age of the matters or documents;
- The possibility of government unconscionable behaviour; and
- The importance or relevance of the documents to determining the matter.

⁵ Should Cabinet decide to waive Cabinet privilege, it is recommended that Cabinet authorize the Attorney General to assume full responsibility for asserting public interest immunity and managing the disclosure, if any, of Cabinet confidences.

SECTION III: CABINET SUBMISSION FORMATS

While departmental officials acting in accordance with existing legislation, policy and procedures can resolve many issues, unique and extraordinary situations often arise which require Cabinet direction. The complex nature of these problems often means that they require a significant and time-consuming amount of research and analysis to identify potential solutions.

As Ministers have a limited amount of time in which to make decisions on the many issues that are presented to them, Cabinet has established a standard decision-making process to help them maximize the use of their time. Standard formats for common Cabinet submissions are a key part of that process and have been developed for the following types of submissions:

- Ministerial Initiative
- Legislative Proposal
- Decision Paper
- Options Paper
- Information Item
- Discussion Paper

These formats have been designed to help Cabinet make decisions about often complex and difficult problems as efficiently and effectively as possible. When fully completed, they provide Cabinet with the key information they need to make a decision and help lead them step-by-step through the decision-making process — from identifying the problem, through a discussion of the relevant background and factors, to a conclusion and proposed solution.

The use of standard formats also supports Cabinet's collective responsibility. Because each Minister is accountable for - and must publicly support - all Cabinet decisions, it is important that all Ministers know the implications and potential consequences of decisions they make together. Following the standard formats helps ensure that even Ministers who were not previously familiar with an issue have the information they need to make and defend every Cabinet decision.

GENERAL TIPS FOR COMPLETING CABINET SUBMISSIONS

The following general tips will help you prepare submissions that more effectively meet Cabinet’s decision-making needs and can be applied to all types of submissions.

- **Use everyday language** — Ministers must regularly review a great deal of written material. To help them review and come to a conclusion more quickly, write as plainly as possible. Avoiding long complex sentences and paragraphs and the use of jargon or technical terms improves the readability of submissions.
- **Complete all sections** — the section headings used in the standard formats cover the most common areas of information that Cabinet needs to make a decision. Completing each section indicates to Cabinet that each area has been considered and helps assure them that they have all the information they need. Where a particular section does not apply, simply note “not applicable” under that heading.
- **Include all relevant information** — Cabinet submissions need to stand on their own, without depending on previous submissions or items not currently before Cabinet. Ensure that submissions have enough relevant information to allow Cabinet to make the requested decision based only on the submission in front of them.
- **Be concise** — while Cabinet submissions need to be complete, it is also important that Ministers not be overwhelmed with unnecessary detail. Try to focus only on significant information and issues and summarize as much as possible. Additional detail and supporting information may be attached to the submission as appendices.
- **Be frank**— Ministers must be able to account for the decisions they have made in Cabinet. Letting them know in advance of any potential issues or negative reaction to a proposed decision helps them prepare for any potential questions. While including this information may not always support a proposed decision, it is critical that Ministers are aware of any issues beforehand to ensure they are not surprised by those issues after a decision has been made. All Cabinet submissions are protected under the *ATIPP Act*.

MINISTERIAL INITIATIVE

This submission format is used when a Minister wants to quickly gauge Cabinet support for a major new proposal or initiative requiring Cabinet’s authority before significant time or resources have been devoted to it.

Use this format to seek preliminary clarification from Cabinet about its support for significant new undertakings that have not been previously discussed or considered (e.g., a major legislative initiative, introducing a major new program or significant program redesign, etc.).

It is a brief submission of no more than one page and does not include any detailed analysis or proposals.

Based on the Ministerial Initiative, Cabinet will either issue a Record of Decision directing the Minister to return with a fully substantiated proposal (either a Decision Paper, Legislative Proposal or joint Cabinet-FMB submission), or will advise the Minister to proceed no further with the proposal.

Cabinet Secretariat will not normally assess Ministerial Initiative submissions; however, they are still subject to the normal ten working day submission deadline.

LEGISLATIVE PROPOSAL

The development and passage of government legislation involves a number of steps and can take a significant amount of time to achieve.

A Legislative Proposal is prepared whenever a Minister is seeking Cabinet direction to develop new, or amend existing, legislation. A Legislative Proposal must always state in clear terms what the amendment or new Act would do and why it is being proposed. As well, a Legislative Proposal should always provide Cabinet with a clear understanding of all significant issues associated with the implementation of this new or amended law.

To provide Cabinet with the information it needs to make a decision on the proposed legislative initiative, the legislative problem or need must first be identified and policy options to solve that problem or need must be examined and decided upon. Submission of a Legislative Proposal in advance of this work being completed would be premature. In the case of numerous or comprehensive amendments to an existing Act, the Legislation Division (Department of Justice) should be engaged as to whether or not a complete re-write of the Act (also known as a “repeal and replace”) is advisable.

As a matter of course, all affected GNWT departments and agencies should be provided with the opportunity to review and provide input on proposed legislative initiatives.

If it is believed that a proposed legislative initiative may potentially adversely impact asserted or established Aboriginal and/or Treaty rights, the GNWT has a legal duty to consult with and, where appropriate, to potentially accommodate the impacted Indigenous governments and rights-holding Indigenous organizations. The Aboriginal Consultation and Aboriginal Relations division in the Department of Executive and Indigenous Affairs can help assess a consultation plan to determine if the proposed GNWT decision or action triggers the GNWT's legal duty to consult, and can provide guidance to ensure the GNWT's legal requirements for Aboriginal consultation are met.

Additionally, and dependent on the nature of the legislative initiative, Indigenous governments; Indigenous organizations; community governments; other stakeholders such as special interest groups, non-government organizations, professional associations, unions, etc.; and/or the general public could be targeted for varying levels of engagement to assist in the development of a Legislative Proposal. For more significant legislative initiatives, broader public and stakeholder engagement is recommended and usually done through a formal engagement plan. The GNWT has developed public engagement guidance documents for GNWT employees.

Before Cabinet approves a Legislative Proposal, the government is obliged to seek comments on the proposal from Standing Committee. To obtain comments, the Government House Leader refers the Legislative Proposal to the appropriate Standing Committee after it has been submitted to the Cabinet Secretariat. Comments are provided back to the Government House Leader in a letter from the Standing Committee. This process is governed by the *Process Convention for Standing Committee Review of Legislation*, which is renewed every Legislative Assembly.

It is important to note that the Government House Leader is given the discretion to take the Legislative Proposal through Cabinet before it is referred to Standing Committee. However, Cabinet does not make a decision to approve the Legislative Proposal until Standing Committee responses have been received. The final package that goes before Cabinet includes the Legislative Proposal, a Legislative Initiatives Committee (LIC) assessment report prepared by the Legislation and House Planning Division, correspondence from Standing Committee, and any communications documents provided in respect of the initiative.

Once Cabinet has approved the Legislative Proposal, the responsible Minister has the authority to draft a bill. The bill, once drafted, must also be submitted to Cabinet for consideration.

DECISION PAPER

A Decision Paper is the most common type of Cabinet submission. It is used when a Minister is recommending a specific proposal for Cabinet's approval. Each Decision Paper should include a concise, but complete, discussion of the issue and the Minister's proposal for addressing it. Decision Papers are assessed by the Cabinet Secretariat.

Cabinet decisions often affect many people and groups. It is sometimes helpful to consult and/or engage with potentially interested or affected groups while developing a proposed response to the problem at hand.

Where a proposed decision may have the potential to adversely impact asserted or established Aboriginal and/or Treaty rights, the GNWT has a legal duty to consult and, where appropriate, accommodate the affected Indigenous government or rights-holding Indigenous organization. The Aboriginal Consultation and Aboriginal Relations division in the Department of Executive and Indigenous Affairs can help assess a consultation plan to determine if the proposed GNWT decision or action triggers the GNWT's legal duty to consult, and can provide guidance to ensure the GNWT's legal requirements for Aboriginal consultation are met.

Additionally, and depending upon the nature of the proposal, there are a number of groups that could be targeted for varying levels of engagement to assist in the development of a proposal. These groups include: Indigenous governments; Indigenous organizations; community governments; other stakeholders such as special interest groups, non-government organizations, professional associations, unions, etc.; and/or the general public. For more significant initiatives, broader public and stakeholder engagement is recommended and usually done through a formal engagement plan. The GNWT has developed public engagement guidance documents for GNWT employees.

Note that there are separate Cabinet Submission Guidelines and templates for the following types of Decision Papers:

- Joint Cabinet-FMB decisions
- Direct Appointments
- Negotiated Contracts

Joint Submissions to the Executive Council and Financial Management Board

Background

The Executive Council (Cabinet) is responsible for the overall management and direction of the executive branch of government, including setting government policy and priorities and providing overall direction to the public service.

The Financial Management Board (FMB) is responsible for the management and control of the financial, human and information resources of the GNWT.

Both Cabinet and FMB also have specific authorities and responsibilities assigned through legislation, policy and directives.

Cabinet and FMB each have their own submission process and formats; however, at times issues arise which require direction from both Cabinet and FMB. On such occasions, a joint submission to both bodies may be appropriate.

Criteria

A joint submission may be appropriate when:

- The submission addresses significant and interrelated policy, financial, organizational or human resource issues requiring both Cabinet and FMB direction.
- An initiative requires the approval authority of both Cabinet and FMB as established in legislation, Cabinet approved policy or FMB directive.
- A submission requires immediate direction from both Cabinet and FMB and the submission presents sufficient background and information for both Cabinet and FMB to make an informed decision.
- The submission is prepared in response to earlier Cabinet or FMB direction to return to both Cabinet and FMB.

Note: Where it is judged more appropriate to make two separate submissions as opposed to one joint submission, each submission should reference that there is a concurrent FMB or Cabinet submission or that a subsequent FMB or Cabinet submission will be brought forward at a later date.

Submission Process

1. Departments should consult with both Management Board Secretariat (MBS) and Cabinet Secretariat staff to ascertain whether it would make sense to develop a joint submission.
2. If a joint submission is considered appropriate, departmental staff can work with both FMB Analysts and Cabinet Secretariat Advisors in the development of the draft joint submission.
3. Joint submissions should be prepared in accordance with the format authorized by the Secretary to Cabinet and the Secretary to the FMB.
4. Once a submission has been approved, it should be signed by the Minister (or Ministers) responsible.
5. The signed submission is electronically transmitted to the FMB Registrar, under the Minister's signature, to the Chair of the FMB and copied to the Secretary of the FMB. It is also electronically transmitted to the Cabinet Registrar, again under the Minister's signature to the Deputy Secretary to Cabinet.

Assessment Process

1. FMB Analysts and Cabinet Advisors collaborate and develop a joint assessment, working with the department to clarify and discuss outstanding issues.
2. The nature of the joint submission and respective workloads will determine whether the FMB Analyst or the Cabinet Advisor will take the lead in drafting.
3. Joint assessments are submitted for approval and signature of both the Secretary to Cabinet and the Secretary to the FMB.
4. Joint submissions are placed on the Cabinet and FMB agendas as deemed appropriate by the Chairs. Ministers are advised by one of the Chairs should the decision be made not to place a submission on the agenda.
5. Pending Cabinet and FMB direction, both a Cabinet and FMB Record of Decision is produced.
6. The discussion at the Cabinet meeting and the FMB meeting is captured in the respective Cabinet and FMB minutes.

Submissions Recommending Direct Appointments

A Decision Paper to propose a direct appointment is used when a Minister is recommending that the open competition process not be used to fill a specific position (or positions), consistent with the provisions of the *Public Service Act*. A direct appointment is a method of staffing a position.

Each Decision Paper should include a concise, but complete, discussion of the issue and the Minister's proposal for addressing it.

The following guidelines apply to direct appointments to the public service.

Guidelines

- 1) Cabinet approval is required prior to any direct appointments to the public service.
- 2) Cabinet approval for a direct appointment may be sought in the following circumstances:
 - a) to support the career development of long-term employees (i.e., one with five or more years of service) who have demonstrated both ability and commitment to the organization;
 - b) to support the advancement of an existing employee who has successfully completed formal training/preparatory assignment directly related to the proposed appointment;
 - c) when a direct appointment would ensure that specialized and unique experience is retained within the public service;
 - d) to resolve an undesirable work situation (e.g., marriage between two employees in a supervisor/subordinate relationship);
 - e) to obtain necessary managerial, technical or operational expertise that is not currently available within the Government of the Northwest Territories;
 - f) to support the career development of an affirmative action candidate from outside the public service where an open competition would not be an appropriate way of filling the position;
 - g) to fill a position when recent recruitment practices for similar positions indicate that an open competition would be unproductive;

- h) to fill a position when there is reasonable and sufficient evidence to suggest that other candidates could not successfully compete with the proposed candidate;
 - i) to support the training and development of an individual where a position has been difficult to fill and the only potential candidate requires some time in a trainee capacity to reach the appropriate skill level;
 - j) to provide for the training and development of an individual who has successfully screened in through a publicly advertised expression of interest process undertaken by the Department of Finance;
 - k) to appoint, on a term basis to intern positions, northern graduates eligible under the Graduate Internship Program; or
 - l) when alternative methods of staffing such as open competition and limited competition have been considered and determined to be inappropriate.
- 3) Direct appointments may also be requested for extraordinary circumstances such as:
- a) appointment of individuals hired on a term basis for Ministerial staff positions;
 - b) appointment of individuals when an outside agency or group becomes part of the public service and the status of existing staff needs to be confirmed;
 - c) appointment of individuals to positions that provide direct administrative support to deputy heads; and
 - d) appointment of individuals that provide dedicated policy support and analysis services directly to a deputy head.
- 4) The direct appointment Decision Paper format should be followed when seeking Cabinet approval for a direct appointment.
- 5) The Department of Finance's Policy Division is required to review the draft decision paper prior to it being submitted for Cabinet consideration.
- 6) For direct appointments of existing casual and term employees of the Government of the Northwest Territories, the Decision Paper seeking Cabinet direction should be considered by Cabinet at least one month prior to the employee's end date in their current position.

Cabinet Submissions Recommending Authorization to Negotiate Contracts Under the *Negotiated Contracts Policy* (11.26)

A Decision Paper to recommend the negotiation and awarding of contracts under the *Negotiated Contracts Policy* is used when a Minister is recommending that the competitive contracting process not be used to negotiate a contract, consistent with the provisions of the GNWT's *Negotiated Contracts Policy*.

Each Decision Paper should include a concise, but complete, discussion of the issue and the Minister's proposal for addressing it.

OPTIONS PAPER

Similar to a Decision Paper, an Options Paper is prepared when a Minister requires Cabinet direction to resolve a specific problem. However, unlike a Decision Paper, the Minister does not recommend a specific solution to the problem, but instead outlines two or more potential options that Cabinet may select from.

While there are often several options for resolving many of the problems brought to Cabinet's attention, usually Ministers are able to identify and recommend a single preferable solution in a Decision Paper. Established GNWT priorities and policies help in this process by providing guidance on what makes an acceptable solution (i.e., a solution that is compatible with existing direction and commitments). In some instances, however, no clear solution will exist, either because there is no established line of policy on the matter or because potential solutions address different policy objectives which conflict with each other. In these situations, an Options Paper may be used to seek direction from Cabinet on the various options.

Options Papers are not meant to help a Minister make routine decisions or to make decisions within their authority. They should only be used in those situations where Cabinet authority is normally required. If there are particular sensitivities around an issue within a Minister's authority, they may wish to have an Information Item prepared for Cabinet's consideration. This will give the Minister the opportunity to get advice and solicit support from other Ministers, but will not fetter the Minister's authority by having Cabinet give inappropriate direction.

Each Options Paper should include a concise discussion of the issue and an analysis of each available option. Options Papers are assessed by Cabinet Secretariat.

INFORMATION ITEM

Information Items are prepared when a Minister wishes to advise their Cabinet colleagues of a planned decision or activity that does not require Cabinet's approval. Often a Minister will submit an Information Item when faced with a politically sensitive issue for which they would like Cabinet's advice, but does not need Cabinet direction.

Information Items may also be submitted to advise Cabinet of documents or reports being released by a Minister (to a Standing Committee and/or the public, or being tabled in the Legislative Assembly), to update them about ongoing initiatives, prior to embarking on public engagement and/or Aboriginal consultation, or where required by certain rules (e.g., the rules for appointments to boards and agencies).

Information Items are not normally assessed by Cabinet Secretariat, although they may be if the Minister is proposing action that requires Cabinet authority. Information Items are subject to the five working day submission deadline.

Please note that Cabinet does not normally issue a Record of Decision based on an Information Item unless Cabinet decides to issue direction resulting from a discussion of the Information Item. In most cases, Cabinet will simply "accept" an Information Item. This does not mean that Cabinet has approved or authorized a particular decision or initiative outlined in the Information Item. If the Minister wishes to receive Cabinet authorization or approval, a Decision Paper must be prepared instead of an Information Item.

Note that Cabinet has established appointment procedures for board appointments, as follows:

Procedures for Appointments to Public Committees, Boards, and Councils

If the Minister or Commissioner has the authority to make an appointment to a public committee, board or council under the relevant policy, legislation or intergovernmental agreement, an Information Item is prepared by the Minister and submitted to the Executive Council. The Information Item should include:

- the name of the public committee, board, or council;
- the name of the appointee;
- the position to which they are appointed (i.e. Chairperson, Member);
- the term of the appointment;

- the group or community the person represents, if any;
- the appointee's qualifications for the position; and
- a list of the membership and terms of the current board.

Community level committees may be appointed without going through the above nominating procedure (e.g. Community Social Assistance Appeal Committees). These appointments, however, must follow the legislated appointment procedures.

Once the meeting of the Executive Council takes place with the Information Item on the agenda, and there are no objections or specific direction given to the contrary, the Minister takes the appropriate steps to make the appointment.

If the Executive Council has the authority to make the appointment, the item should be submitted for Executive Council consideration in a Decision Paper format with the information, as listed above for an Information Item, included. Should Executive Council approval of the nomination be given, a Record of Decision is issued.

In some instances, the Legislative Assembly must approve nominations prior to the appointment being made. Where a formal Executive Council nomination is to be forwarded to the Legislative Assembly, the nomination may be obtained by means of a Decision Paper.

DISCUSSION PAPER

The discussion paper format may be used when a Minister wishes to engage their Cabinet colleagues in a focused discussion on an identified issue. Unlike other submission formats, however, a Discussion Paper is unique in that it is not used to propose particular actions for Cabinet approval (as with Ministerial Initiatives, Decision Papers and Options Papers) or to report on something a Minister plans to do under their own authority (as with an Information Item).

Cabinet will not normally issue a Record of Decision when it has considered a Discussion Paper, but the resulting discussions may provide a Minister with additional information or views that will be useful if they need to return with a formal proposal for Cabinet or FMB direction.

Cabinet Secretariat will not normally assess Discussion Papers; however, these submissions are still subject to the normal ten working day submission deadline.

COMMITTEE-OF-CABINET MEETING SUMMARY

This submission format is used to provide Cabinet with a summary of discussions and proceedings of individual Committees-of-Cabinet (COC) as required by the Terms of Reference for established COCs.

It should be a brief submission, usually not more than two pages, and need not include any detailed analysis or proposals.

Each meeting summary must be reviewed and signed by the Committee Chair prior to submitting to the Cabinet Secretariat. All meeting summaries submitted to the Cabinet Secretariat five working days in advance of the next Cabinet meeting will be included on the draft Agenda and distributed in the Cabinet package.

Should a COC wish to make a recommendation to Cabinet, based on work done or discussions taken in committee, each Committee Chair is authorized to bring recommendations forward to Cabinet as a decision item signed by the Chair in his or her capacity as Chair of the COC. These decision items should be formatted according to established Cabinet submission formats (decision paper, legislative proposal etc.) and submitted through the standard submission procedures for all items of this nature.

SECTION IV – APPENDICES

1. Process Conventions

- **Appendix 1.01**
Guiding Principles and Process Conventions – Consensus Government in the Northwest Territories (March 2021)

2. Submissions Guidelines

- **Appendix 2.01**
Process and Format for Joint Submissions to the Executive Council and Financial Management Board (December 2023)
- **Appendix 2.02**
Procedures for Appointments to GNWT Committees, Boards, and Councils (December 2023)
- **Appendix 2.03**
Executive Council Procedures for Submissions Recommending Direct Appointments (December 2023)
- **Appendix 2.04**
Format for Executive Council Submissions Recommending Authorization to Negotiate Contracts under the Negotiated Contracts Policy (December 2023)
- **Appendix 2.05**
Cabinet Operational Guidelines - When a Cabinet Submission Might Be Required (December 2023)
- **Appendix 2.06**
Cabinet Operational Guidelines - Electronic Executive Council Submissions (December 2023)

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- **Appendix 3.01**
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- **Appendix 3.02**
Cabinet Operational Guidelines - Committees-of-Cabinet: Operational Procedures (June 2016)

- **Appendix 3.03**
Cabinet Operational Guidelines - Government Activities During a Transition Period (May 2023)
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- **Appendix 3.05**
Cabinet Operational Guidelines – Government Communications and Advertising During a Transition Period (May 2023)
- **Appendix 3.06**
Cabinet Operational Guidelines – Procurement Activities During a Transition Period (September 2023)
- **Appendix 3.07**
Cabinet Operational Guidelines for Selecting Names for GNWT Owned Office Buildings (May 2016)
- **Appendix 3.08**
Cabinet Operational Guidelines - Legislative Proposal Development and Distribution (December 2017)
- **Appendix 3.09**
Cabinet Operational Guidelines on the Use of the Terms “Indigenous” and Aboriginal” (December 2017)
- **Appendix 3.10**
Cabinet Operational Guidelines – Land Withdrawals (January 2022)
- **Appendix 3.11**
Cabinet Operational Guidelines – Publishing Proposed Regulations (March 2021)



CONSENSUS GOVERNMENT IN THE NORTHWEST TERRITORIES

GUIDING PRINCIPLES AND PROCESS CONVENTIONS

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Consensus Government in the NWT

Guiding Principles

1. Consensus government is defined by the ability and willingness of all Members of the Legislative Assembly to work together, within their respective roles, for the collective good of the people of the Northwest Territories.
2. Consensus government is a unique combination of the British traditions of ministerial responsibility, cabinet solidarity and legislative accountability and the Aboriginal traditions of open dialogue, inclusive decision-making, accommodation, respect and trust.
3. Open and respectful communication between all Members is the most essential feature of consensus government. While it is impossible to reach unanimous agreement on all issues, the opportunity for all Members to have meaningful input into important decisions is fundamental.
4. Effective communication is a “double-edged sword.” For consensus government to work, all Members must agree to respect the confidentiality of information before it is properly made public. Similarly, Members should acknowledge the fact that information was shared in confidence once it has been released.
5. Except under extraordinary circumstances, Members of the Legislative Assembly should be made aware of and have opportunity to discuss significant announcements, changes, consultations or initiatives before they are released to the public or introduced in the Legislative Assembly. Use of the element of surprise is inconsistent with consensus government.
6. The business of consensus government should be carried out in public, unless there are compelling reasons to meet in private. Public meetings should be the rule and not the exception.
7. The role of the Caucus is fundamental to the effectiveness of consensus government. Caucus provides a venue for all Members to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise.
8. The Premier and Cabinet are appointed by the Members of the Legislative Assembly to provide overall leadership and direction in accordance with the broad strategic direction set by the Caucus. Cabinet must have the ability to implement this strategic direction effectively and efficiently but in a

way that reflects the concerns of Regular Members and maintains their support.

9. Unlike a party-based parliamentary system, the Regular Members are not a “Cabinet in Waiting.” Their ultimate goal is to support Cabinet in implementing the broad strategic direction set by the Caucus.
10. As with all parliamentary systems of government, a healthy level of tension must exist between Cabinet and Regular Members. While the ultimate goal of the Regular Members is not to defeat or discredit Cabinet, it is their responsibility to review and monitor the leadership and direction of Cabinet and hold it to account.
11. The attendance and participation of all Members of the Legislative Assembly within their respective roles is essential to the effectiveness of consensus government. Formal sessions of the Legislative Assembly and meetings of Caucus, Cabinet and standing and special committees must be a priority for every Member.

PROCESS CONVENTION

The Role of Caucus

Guiding Principle

The role of the Caucus is fundamental to the effectiveness of consensus government. Caucus provides a venue for all Members to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise.

Guiding Principles: **1, 3, 4, 5, 7 and 11**

General Protocols

1. Caucus is intended to provide a venue where Members can share their views and build consensus on matters that are highly sensitive in nature or of broad and strategic importance to all Members or the Northwest Territories.
2. Caucus is not a decision-making body. Caucus discussions should not limit or replace debate on the floor of the legislature, in Cabinet or Committees. Nothing in this protocol is intended to limit the rights and privileges normally enjoyed by Cabinet, the House or its Members and Committees.
3. The important role that Caucus plays in consensus government depends upon the ability of every Member to express their views in an honest and forthright fashion. Caucus cannot function without an absolute guarantee of confidentiality. No Member other than the Chair or Deputy Chair, when specifically authorized to do so, should comment upon or release information about matters discussed in Caucus.
4. Whenever possible, Caucus direction should be determined through consensus. In those rare cases where no clear consensus emerges, a vote may be taken. The results of votes are determined by the Chair.
5. Caucus is not intended to replace the formal roles and responsibilities of the House, the Speaker, Ministers, Cabinet, Committees or the Board of Management. Nothing in this protocol should be seen as limiting these roles and responsibilities.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Roles and Responsibilities in the Caucus

1. The Chair and Deputy Chair are selected by the Caucus. These appointments are not formally ratified by the House. The Chair and Deputy Chair are Members who do not serve on Cabinet, as Speaker or as Chair of a Standing Committee of the House. The election of Chair and Deputy Chair is presided over by the Clerk of the Legislative Assembly. The Chair or Deputy Chair serve at the pleasure of Caucus and may be removed at any time.

2. The Chair is responsible for calling meetings of the Caucus, approving and distributing draft agendas and supporting materials and maintaining order and decorum in meetings. When clearly and specifically authorized to do so, the Chair and Deputy Chair may speak publically on behalf of Caucus.
3. All MLAs serve as equal members of Caucus and are encouraged to participate in discussions free from Cabinet or Committee solidarity. Reference to Members by titles held outside the Caucus is discouraged. On rare occasions, Members may be expected to speak to a matter in an official role held outside the Caucus. For example, the Government House Leader may be called upon to advise Caucus of upcoming government House business or the Speaker may be called upon to advise Caucus of the proposed appointment of a statutory officer.
4. The Speaker of the Legislative Assembly is a member of Caucus and is entitled to participate in discussions without the usual restraints that accompany this office.

Caucus Meetings

1. Caucus meets regularly when the House is in Session. Regular meetings occur on Tuesdays at 10:30 a.m. Caucus also meets at 1:30 pm on the day preceding the commencement of a legislative sitting. Regular meetings of Caucus take place in the Caucus Room of the Legislative Assembly.
2. At least once a year the Caucus meets when the House is not in Session. These meetings normally take place outside the capital and are scheduled at the call of the Chair after consulting with all Members. The Chair may call a special meeting of Caucus at any time after consulting with as many Members as possible.
3. Quorum for a Caucus meeting is a majority of sitting MLAs. A Caucus meeting may not commence until a quorum is established. Once a quorum has been established, the meeting is not terminated by the subsequent loss of quorum unless the attention of the Chair is drawn to such loss of quorum.
4. The attendance of all Members at Caucus meetings is essential to the effectiveness of consensus government. Attendance at regular and special Caucus meetings must be a priority for every Member.
5. As Caucus is not a formal decision-making body, minutes or records of decision are not kept. Caucus agendas and supporting information are confidential as is correspondence from the Chair or Secretary to Members.

Mandate of Caucus

1. Establishing, promoting and, each year, reviewing the Principles of Consensus Government and the consensus government protocols
2. Orientation of a newly-elected Legislative Assembly.
3. Establishing the priorities for a newly elected Legislative Assembly.
4. Emergency or strategic issues of immediate concern to all Members

5. The political evolution of the Northwest Territories
6. Members' Code of Conduct and disciplinary matters
7. Appointment of officers of the Legislative Assembly.
8. Meetings with senior federal, provincial and territorial leaders.
9. Legislation affecting Members directly.
10. House planning and scheduling.


Chair, Caucus

March, 2, 2021
Date


Chair, Executive Council

March 2, 2021
Date


Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date

PROCESS CONVENTION

Standing Committee Review of Legislation

Application

This process convention is not intended to govern Appropriation Acts, Supplementary Appropriation Acts, Miscellaneous Statutes Amendment Acts or any other legislative initiative, eg. Taxation measures for which legislative proposals are not normally required by Cabinet. It does not apply to bills brought forward by the Board of Management or Speaker of the Legislative Assembly.

Guiding Principles: **1, 2, 3, 4, 5, 6 and 9**

General Considerations

It is fundamental to consensus government that the Standing Committee on Accountability and Oversight (AOC) is provided with an opportunity to review legislative proposals and provide advice to Cabinet prior to the introduction of legislation in the Legislative Assembly.

Legislative proposals are Cabinet documents that must be kept confidential.

While Cabinet decisions on legislative proposals are pending, individual Ministers are not in a position to make any commitments regarding the initiative.

All advice and communication from AOC on legislative initiatives will be addressed to the Government House Leader, who has overall responsibility for the Government's legislative agenda.

In consideration of the limitations noted above, the AOC's review of legislative proposals may not be a conclusive exercise in terms of reaching full agreement prior to the introduction of a bill in the Legislative Assembly. AOC's advice will guide the government in determining the advisability of proceeding.

Nothing in this process convention precludes Cabinet's prerogative to introduce bills in the Legislative Assembly or the right of Standing Committees and Regular Members to debate and introduce amendments to these bills.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

1. A legislative proposal is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
 - a. The legislative proposal shall identify the complexity of the legislative initiative based on the following categories:

- i. Low – such as minor or housekeeping amendments to existing legislation and codifies existing practices and policies;
 - ii. Medium – such as significant changes to existing legislation to expand the scope of an Act, introduce new powers or authorities, or codify new policies or practices; or
 - iii. High – such as a repeal or replacement of an existing Act, or introduces a new legislative scheme or regime.
 - iv. The descriptions of these categories are just guides, and some initiatives may fall into a different category based on scope.
 - b. The legislative proposal shall identify whether the legislation will be developed with the participation of a Technical Working Group and/or in collaboration with Indigenous governments and organizations.
 - c. The legislative proposal shall identify whether the legislative initiative is of a nature where s. 22(2) of the *Northwest Territories Act*, SC 2014 may apply, and the consent of the Governor in Council will be required.
2. At the discretion of the Government House Leader or upon request from the sponsoring Minister, a legislative proposal may be reviewed by Cabinet before it is referred to the Standing Committee on Accountability and Oversight.
 3. The legislative proposal is forwarded by the Government House Leader to the Chair of AOC. All Ministers are copied on this correspondence..
 4. AOC shall review the legislative proposal. Where a legislative proposal identifies the initiative as high complexity, departmental officials should be prepared to provide a briefing on the proposal. AOC retains the prerogative to request a briefing on any legislative proposal, regardless of the level of complexity. However, it is understood that the legislative proposal is a Cabinet document officials cannot make changes to the proposal or make any commitments regarding the content of a bill.
 5. AOC's advice on a legislative proposal is provided in a letter from the Chair to the Government House Leader. The sponsoring Minister is copied on this correspondence. As part of its response, AOC can indicate that it does not agree with the Government's assessment of the complexity of the Bill.
 6. AOC will endeavor to consider and provide a response to legislative proposals within six weeks of receipt subject to AOC's meeting schedule. The Government House Leader will forward legislative proposals to AOC upon receipt and will be mindful of AOC's meeting schedule when forwarding legislative proposals to the Committee. As part of its response, AOC will indicate which Standing or Special Committee the bill should be referred to, if it is brought forward.
 7. Upon receipt of AOC's advice and the completion of an assessment report by central agencies, the Government House Leader will arrange for the legislative proposal to be

put before Cabinet for final consideration. The proposal, assessment report and AOC correspondence goes before Cabinet as a package.

8. The Government House Leader will, prior to the beginning of each sitting of the Legislative Assembly, provide Caucus with a list of bills anticipated for introduction in that sitting, and an overall update on the Government's legislative agenda.

A. Drafting of a Bill

1. Where a proposed Bill is being drafted in collaboration with a Technical Working Group or Indigenous Governments, the sponsoring Minister shall consider whether and how the appropriate Standing Committee could be engaged in the process. In doing so, the Minister may wish to consult with Committee on how they could be engaged.

B. Introduction of a Bill

1. After a Bill is read for the second time, the sponsoring Minister shall table in the Assembly, a plain language summary of the Bill at the earliest opportunity in the same sitting. Where relevant, the summary may also include information on the purpose of the Bill, and engagement undertaken in developing the Bill.
2. Upon second reading of a Bill, where AOC and the Government House Leader agree that a high complexity legislative initiative requires a longer-period of review, the responsible Standing Committee shall seek unanimous consent to waive the Rules to provide a review period of 180 days.

C. Standing Committee Review of a Bill

1. On high complexity legislative initiatives, at the request of the Standing Committee, the sponsoring Minister may arrange for knowledgeable Departmental staff to accompany Standing Committees when they are conducting public hearings on a bill. The Departmental staff may be asked to provide a presentation on the Bill or answer any technical questions from the public that are referred to them by the Committee Chair. The sponsoring Minister and Standing Committee shall agree on the role of Departmental staff before any public hearing process begins.
2. At any time prior to clause by clause review of a Bill, the Standing Committee can request to meet with the sponsoring Minister and their officials to discuss technical or policy issues that have been raised during their engagement on the Bill.
3. All correspondence related to a Bill, shall be between the Government House Leader and the Chair of the Standing Committee reviewing the Bill, copying the sponsoring Minister, the Principal Secretary, the Deputy Clerk, House Procedure and Committees, the Director, Research and Committee Advisory Services, and the Legislative Coordinator.
4. As early as possible, Standing Committee shall share with the Government House Leader and sponsoring Minister any amendments Committee will be proposing to the Bill. Similarly, the sponsoring Minister shall share as early as possible Cabinet's position

on the amendments with Standing Committee. Recognizing this exchange may often occur during a sitting, Committee will seek to provide a minimum of 48 hours' notice of amendments prior to clause-by-clause review, and a Minister will seek to advise of Cabinet's position a minimum 2 hours prior to clause-by-clause review.

5. Amendments to legislation moved and adopted by Committee during its clause by clause review, will fail unless concurred with by the sponsoring Minister. Any amendment not concurred with by the sponsoring Minister can be moved by a Member during Committee of the Whole review of the Bill.
6. The Standing Committee may, by way of a motion moved and adopted by Committee, report that a Bill not be proceeded with.
7. In the case of a bill that Standing Committee reports as not to be proceeded with, the bill will move to Committee of the Whole upon report of the Committee, unless withdrawn at that time by the mover and seconder of the Bill.

D. Review of Legislation Following Standing Committee's Report on the Bill

8. During clause-by-clause review of a bill in Committee of the Whole, any Member may move a motion to amend the Bill. If the motion is passed, the Bill is amended. Concurrence from the sponsoring Minister is not required.
9. A Member may also move amendments to a bill at third reading. If the motion is adopted by the Assembly, the bill is amended. Concurrence from the sponsoring Minister is not required.
10. All motions to amend a bill must be in writing and in English and French.


Chair, Caucus

March 2, 2021
Date


Chair, Executive Council

March 2, 2021
Date


Chair, Standing Committee on
Accountability and Oversight

02 March 2021
Date

PROCESS CONVENTION

Consideration and Enactment of Bills Under the Administration of the Speaker and Board of Management of the Legislative Assembly

General Guidelines

This process convention applies to the consideration of legislation that falls under the administration of the Speaker and the Board of Management of the Legislative Assembly including bills to amend or replace the following statutes:

- *Legislative Assembly and Executive Council Act;*
- *Elections and Plebiscites Act*
- *Electoral Boundaries Commissions Act;*
- *Retiring Allowances Act;*
- *Supplementary Retiring Allowances Act;*
- *Human Rights Act, Part 3;*
- *Official Languages Act, Part 2; and*
- *Access to Information and Protection of Privacy Act, Part 4, Division A.*

Nothing in this Process Convention detracts from the financial prerogative of the government as expressed in Section 35 of the *Northwest Territories Act*, SC. 2014, c.2, s.2.

Guiding Principles: 3, 5, 6 and 7

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

1. The need to amend one of the above-noted statutes, or to introduce a new bill, is proposed by any one of the following:
 - a. The Legislative Assembly, including an MLA, a Standing or Special Committee or Committee of the Whole;
 - b. The Speaker or the Board of Management;
 - c. Caucus;
 - d. The Executive Council;
 - e. The Independent Commission to Review Members' Compensation and Benefits;
 - f. The Conflict of Interest Commissioner;
 - g. The Chief Electoral Officer;
 - h. The Electoral Boundaries Commission; or
 - i. Any member of the public.

2. Consultation with affected agencies and special interest groups including any of those listed in Step 1.
3. A legislative proposal is drafted by the Clerk of the Legislative Assembly and forwarded to the Speaker for signature and submission to the Board of Management.
4. The Board of Management considers the legislative proposal and will either:
 - a. Approve it;
 - b. Approve it subject to amendments;
 - c. Defer it to another meeting; or
 - d. Reject it.
5. Depending upon the source and nature of the legislative proposal, the Speaker may elect to brief the full Caucus prior to rejecting a legislative proposal or issuing drafting instructions for a bill.
6. The Clerk of the Legislative Assembly issues drafting instructions to the Department of Justice (Director, Legislation Division) for the preparation of a bill.
7. The Board of Management may authorize an early draft of the bill to be circulated to affected departments, agencies or special interest groups for comment.
8. The bill is finalized, signed off by the Clerk of the Legislative Assembly and then translated into French by the Department of Justice. The Director, Legislation Division transmits the bill to the Clerk of the Legislative Assembly advising that the bill is ready for the consideration of the Speaker and Board of Management.
9. The Board of Management considers the draft bill and will either:
 - a. Approve it;
 - b. Approve it subject to amendments;
 - c. Defer it to another meeting; or
 - d. Reject it.

If approved, the Board will designate one of its members to move (sponsor) the bill in the House and another member to second the bill.

10. The Speaker will provide a clause-by-clause briefing of the draft bill to the full Caucus prior to introduction in the House.
11. The Clerk of the Legislative Assembly prepares standard text for Notice of Motion for First Reading, First Reading, Second Reading, referral to Committee of the Whole and Third Reading of the bill in the House.
12. The Clerk of the Legislative Assembly will ensure that the mover (sponsor) of the bill is briefed on the bill and is prepared to speak to the principle of the bill at Second Reading, if necessary.
13. The sponsor of the bill gives Notice of Motion for First Reading of the bill on a date agreed to by the Caucus. First and Second Reading of the bill are given in accordance with the Rules

of the Legislative Assembly. Unless otherwise directed by the Caucus, the sponsor of the bill will, as part of the Motion for Second Reading, move that the bill be referred directly to Committee of the Whole for consideration.

14. Committee of the Whole determines when the bill will be considered.
15. The Clerk of the Legislative Assembly ensures that the sponsor of the bill has opening remarks to introduce the bill in Committee of the Whole.
16. Committee of the Whole review: The sponsor of the bill delivers opening remarks. If agreed to by the Committee, the sponsor of the bill will invite witnesses into the House for discussion and clause-by-clause review. The Speaker does not appear before Committee of the Whole to defend the bill. Witnesses will normally include the Clerk of the Legislative Assembly and the Director, Legislation Division, Department of Justice.
17. When Committee of the Whole review is complete, the Bill is reported to the Speaker as ready for Third Reading. The Bill is given Third Reading and Assent in accordance with the Rules of the Legislative Assembly.
18. If the bill has no "coming into force" provision, it is law immediately upon Assent being given by the Commissioner of the Northwest Territories.



Chair, Caucus

March 2, 2021
Date

Caroline Lachance

Chair, Executive Council

March 2, 2021
Date



Chair, Standing Committee on
Accountability and Oversight

02 MARCH
Date

PROCESS CONVENTION

Standing Committee Review of Proposed Policy Initiatives and Implementation Plans

Application

Proposed policy initiatives subject to this Convention are those policies considered for approval by the Commissioner in Executive Council and the signature of the Premier. This would include both the establishment of new policies and substantive amendments to, or rescinding of, existing policies. This Process Convention does not apply to minor administrative amendments, which will not significantly impact established policy commitments.

This Convention also applies to Standing Committee briefings on implementation schedules, communication plans, and implementation tools required to bring a new or substantively amended policy into force.

Guiding Principles 1, 3, 4, 5 and 8

General Considerations

It is fundamental to consensus government that Standing Committees are provided with an opportunity to review proposed policy initiatives and provide advice to the Government in advance of Cabinet decisions.

These policy initiatives are proposed statements of the government's commitment to the public and must be kept confidential until approved by Cabinet.

One of the guiding principles of consensus government is that Members of the Legislative Assembly should be made aware of and have the opportunity to discuss significant announcements, changes, consultations, or initiatives before they are released to the public.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

1. A proposed policy initiative is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
2. Cabinet considers the proposed policy initiative. The only decision made at this time is whether or not the proposed policy initiative should be referred to Standing Committee for review and comment.
3. If approved for referral to Standing Committee, the proposed policy initiative is referred by the Premier to the Chair of the appropriate Standing Committee. The letter of transmission includes an indication of a preferred date for Cabinet consideration of the initiative so that the Standing Committee will have an understanding of the time frame for providing

comments. The Minister responsible is copied on this correspondence. The Standing Committee on Accountability and Oversight will also be copied on this correspondence if the proposed policy initiative is being referred to a different Standing Committee.

4. The Standing Committee reviews the proposed policy initiative. The Minister and officials may be invited to this meeting to provide additional information. However, it is understood that the proposed policy initiative is a Cabinet document and that any recommendations or advice regarding modifications to the proposed policy initiative, or advice on the proposed policy's implementation, must be provided in the form of a letter from the Standing Committee Chair back to the Premier. The Minister responsible is copied on this correspondence.
5. The Premier, following consultations with the Minister responsible for the original policy initiative, then makes a subsequent submission to Cabinet advising of any concerns raised by Standing Committee and recommending actions for Cabinet's consideration. The proposed policy initiative is received by the Cabinet Secretariat and the Cabinet Secretariat prepares an assessment of the initiative.
6. Cabinet considers the proposed policy initiative, along with Standing Committee comments and Cabinet Secretariat assessment.
7. The Premier advises the Standing Committee Chair of Cabinet's decision with respect to the proposed policy initiative and any relevant implementation plans.
8. When Cabinet decides to establish a new policy, apply a policy that had previously not been approved or applied, or substantively amend an existing policy in accordance with this Convention, the Minister responsible for implementing the Policy will provide both Cabinet and the appropriate Standing Committee with briefings on the relevant implementation and communication plans, as well as any significant implementation tools (e.g., ministerial policies, eligibility criteria, program guidelines), in advance of the Policy's implementation, application and any substantive public communications.


Chair, Caucus

March 2, 2021
Date


Chair, Executive Council

March 2, 2021
Date


Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date

PROCESS CONVENTION

Transition Stewardship

Definition

Transition Period: For the purposes of this convention, transition period refers to the period between the dissolution of one Legislative Assembly through to the appointment of Members of the Executive Council for the next Assembly.

Preamble

During a transition period an outgoing Cabinet cannot be held accountable for its decisions in the same manner that Cabinet/Financial Management Board (FMB) can be held responsible before the dissolution of an Assembly.

Further, during a transition period the business of government, including legal and intergovernmental commitments and routine matters of administration, still needs to be addressed.

For both these reasons, during a transition period an outgoing Cabinet/FMB should avoid, whenever possible, making any new and significant policy decisions, contractual commitments, or appointments which were not previously referred for Standing Committee review and comment.

Guiding Principles 1, 3, 4 and 5

This process convention will be implemented in accordance with the following Caucus approved guiding principles for Consensus Government in the NWT:

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

- (1) Within the three months immediately preceding the dissolution of a Legislative Assembly and not less than one month before the dissolution, Cabinet/FMB will provide the Standing Committee on Accountability and Oversight with a confidential briefing which will identify any:
 - a) significant intergovernmental, labour, program, or contractual negotiations currently underway which could reasonably be expected to conclude or require final approval during the transition period;
 - b) significant policy reviews, program assessments or strategic evaluations currently underway which could reasonably be expected to lead to significant policy decisions during the transition period;
 - c) vacancies or pending vacancies that might require appointments during the transition period which have the potential to be controversial; and

- d) planned departmental or agency restructuring.
- (2) The Standing Committee on Accountability and Oversight will, not less than two weeks before the dissolution of a Legislative Assembly, provide Cabinet/FMB written comments on the issues and plans identified in the briefing referred to in paragraph (1) above.
- (3) The outgoing Cabinet/FMB will not decide on any new and significant policy decisions, contractual commitments, or appointments during the transition period without first considering:
- a) specific comments received from the Standing Committee on Accountability and Oversight in accordance with paragraph (2) above;
 - b) the principles of "good faith negotiations" and the reasonable expectations of third parties, especially with respect to intergovernmental negotiations;
 - c) the extent to which a decision would preempt or fetter the authority of the next Legislative Assembly;
 - d) the implications of deferring the decision to the next Cabinet/FMB or Legislative Assembly; and
 - e) the spirit and intent of this process convention.
- (4) Following the first sitting of a new Legislative Assembly and before the second sitting of that Assembly, the Secretary to Cabinet and the Clerk of the Legislative Assembly shall, jointly and in confidence, bring to the attention of the incoming Cabinet and the incoming Standing Committee on Accountability and Oversight:
- a) those matters brought to the attention of the former Standing Committee on Accountability and Oversight in accordance with paragraph (1) above and any substantive comments offered by the former Standing Committee on Accountability and Oversight in accordance with the paragraph (2) above; and
 - b) any new and significant policy decisions, contractual commitments, or appointments made by the outgoing Cabinet/FMB during the transition period.



Chair, Caucus

March 2, 2021

Date



Chair, Executive Council

March 2, 2021

Date



Chair, Standing Committee on

02 MARCH 2021

Date

PROCESS CONVENTION

Territorial Leadership Committee

General Considerations

The Territorial Leadership Committee (TLC) is the vehicle used by the Northwest Territories' consensus style government to recommend the appointment of the Speaker, Premier and Members of the Executive Council to the Legislative Assembly and Commissioner of the Northwest Territories. The Territorial Leadership Committee is a unique meeting of all duly elected Members of the Legislative Assembly. Its meetings are not governed by the Rules of the Legislative Assembly and constitute neither a formal sitting of the House or one of its standing or special committees. Its decisions do not carry the weight of law and are not binding in any way.

The Speaker and Premier are appointed by motion of the Legislative Assembly. The Executive Council is composed of the Premier chosen by the Legislative Assembly and persons appointed to the Executive Council by the Commissioner on the recommendation of the Legislative Assembly. The size and structure of the Executive Council is governed by political convention only. It is up to each Legislative Assembly to determine the size and make-up of its Executive Council and the timing of its appointment. These conventions, known as the "Guidelines and Procedures for Selection of Speaker, Premier and Members of the Executive Council (Guidelines and Procedures)" may be reviewed and revised as often as Caucus sees fit. The most up-to-date Guidelines and Procedures are included in this protocol as Appendix 1.

Guiding Principles 1, 2, 6 and 7

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Protocols

Initial Meeting

1. The first meeting of the Territorial Leadership Committee following a general election is called by the Clerk of the Legislative Assembly following consultation with the full Caucus membership. Until such time as a Speaker-elect and a Caucus Chair have been chosen, the Clerk serves as Chair of the Caucus and the TLC.
2. Prior to the first meeting of the Territorial Leadership Committee, the Clerk will review the existing Guidelines and Procedures with the Caucus. At least two days prior to the initial Territorial Leadership Committee meeting, Caucus will adopt the "Guidelines and Procedures" with or without amendment.
3. Immediately following Caucus adoption of the Guidelines and Procedures, the Clerk will issue a media release advising of the time and location of the Territorial Leadership

Committee meeting and the Guidelines and Procedures adopted by Caucus. The most up-to-date version of this media release is included in this protocol as Appendix 2.

4. At the conclusion of the Territorial Leadership Committee meeting, the Clerk will issue a media release advising who has been recommended by the TLC for appointment as Speaker, Premier and Members of the Executive Council.
5. The Clerk will draft formal motions of appointment for the Speaker and Premier-elect and a formal motion to recommend the appointment of Members of the Executive Council. The Clerk will first call upon Members who were nominated for each of the positions in question (where applicable) to move and second the motions. Failing this, the Clerk will seek the advice of the successful candidates for each position as to who should move and second the motions.
6. Immediately following adjournment of the sitting day at which the above-noted motions are adopted, the Speaker will preside over a Swearing-in Ceremony for the Members of the Executive Council. At this ceremony, the Commissioner will be called upon to administer the Oath of Office for Members of the Executive Council.

Subsequent Meetings

1. Following the initial appointment and/or swearing-in of a Speaker, Premier and Member of the Executive Council, vacancies in these offices may occur by reason of resignation, death or revocation of appointment by the Legislative Assembly or the Commissioner on the recommendation of the Legislative Assembly.
2. The only means by which a lack of confidence in the appointment of the Speaker, Premier or one or more Members of the Executive Council may be expressed is by way of the adoption of a formal motion duly moved, seconded and resolved in the Legislative Assembly in accordance with its Rules.
3. If the position of the Speaker or Premier becomes vacant, the Deputy Speaker or the Deputy Premier, as the case may be, exercises the powers and performs the duties of that office until a new Speaker or Premier is appointed by the House. If the vacancy occurs within six months of the scheduled dissolution of a Legislative Assembly, the Deputy Speaker or Deputy Premier will continue to exercise the powers and perform the duties of that office in an acting capacity until a Speaker and Premier are selected by the next Legislative Assembly.
4. If one or more vacancies occur on the Executive Council within six months of the scheduled dissolution of a Legislative Assembly, the vacancy will not be filled. The ministerial responsibilities of the former Minister will be redistributed by the Premier or the Deputy Premier, as the case may be, to the remaining Members of the Executive Council.
5. If the number of vacancies occurring within six months of the scheduled dissolution of a Legislative Assembly causes the number of Members appointed to the Executive Council to fall below four, Caucus will meet to fill one or more of the vacancies as if they had occurred more than six months prior to the scheduled dissolution (see process outlined below).
6. If the appointment of the Speaker, Premier or a Member of the Executive Council is ended for any reason more than six months prior to the scheduled dissolution of the Legislative

Assembly, the Chair of Caucus will, after consulting with all Members, call a meeting of the Caucus. Every effort will be made to schedule this meeting no later than four weeks from the effective date of the vacancy.

7. At the Caucus meeting, the Clerk will review the existing Guidelines and Procedures with the Caucus. Caucus will adopt the "Guidelines and Procedures" with or without amendment.
8. Immediately following Caucus agreement on the Guidelines and Procedures, the Clerk will issue a media release advising of the time and location of the Territorial Leadership Committee meeting and the Guidelines and Procedures adopted by Caucus.
9. Following the establishment of a date for the Caucus meeting, the Speaker will call a meeting of the Territorial Leadership Committee to take place on the first working day following the Caucus meeting. If the Legislative Assembly is in recess and is not scheduled to sit on the day following the Territorial Leadership Committee meeting, the Speaker will recall the House on the first working day following the TLC meeting in the Speaker will recall the House on the first working day following the TLC meeting in accordance with an Extended Adjournment Motion. If a Session of the Legislative Assembly has been prorogued, the Speaker shall request the Commissioner of the Northwest Territories to convene a special Session at the appropriate date and time.
10. At the conclusion of the Territorial Leadership Committee meeting, the Clerk will issue a media release advising who has been recommended by the TLC for appointment as Speaker, Premier or Member of the Executive Council.
11. The Clerk will draft either formal motions of appointment or a formal motion to recommend the appointment of a Member or Members of the Executive Council. The Clerk will first call upon Members who were nominated for the positions in question (where applicable) to move and second the motion or motions. Failing this, the Clerk will seek the advice of the successful candidates for each position as to who should move and second the motion or motions.
12. If the vacancy in question pertains to the Office of the Speaker, the person appointed assumes the role in the House immediately upon adoption of the motion. If the vacancy in question pertains to the Premier or a Member of the Executive Council, the Speaker will preside over a Swearing-in Ceremony at the adjournment of the sitting day at which the motion is adopted. At this ceremony, the Commissioner will be called upon to administer the Oath of Office for Members of the Executive Council.



Chair, Caucus

March 4, 2021

Date



Chair, Executive Council

March 4, 2021

Date

Sh (S.F. MORN)
Chair, Standing Committee on
Accountability and Oversight

04 MARCH 2021
Date

PROCESS CONVENTION

Communications between Cabinet, Ministers, Standing Committees and Regular Members

Application

This process convention is not intended to supersede the existing roles, authorities or privileges of individual members of the Legislative Assembly, Standing Committees, the Executive Council, Ministers or the Speaker.

Guiding Principles: **3, 4, 5, 6 and 8**

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Processes

1 Regular Meetings between Premier and Regular Members

- a) Formal meetings between the Premier and the Regular Members may be initiated at the request of either party and will be held not less than three times a year. The purpose of these meetings will be to discuss issues of mutual interest and concern and are not meant to replace or exclude other opportunities for the Premier to appear before the Standing Committee on Accountability and Oversight.
- b) The Clerk of the Legislative Assembly and the Principal Secretary (or their respective designates) will identify specific agenda topics, and attend the formal meetings to provide procedural advice as necessary.
- c) Decisions as to whether to invite other Ministers and officials and when to conduct a meeting *in camera* will be made by the Premier and Regular Members on a case by case basis.

2 Advance Notice of Media Communications

- d) The Premier will provide Regular Members with a weekly listing of planned government news releases and media advisories, indicating the planned release date, subject of the release and main government message to be communicated. The listing will allow Regular Members to make better and more informed decisions and seek further information from Ministers on planned announcements of particular interest to them.
- e) Information prepared for distribution at media events and not otherwise distributed to the public will be shared in advance with Regular Members.

- f) While the Premier will make best efforts to provide Regular Members with a complete list of upcoming communications each week, there may be times when the Government will need to comment on breaking news or make an unplanned announcement. In these instances, Regular Members will be provided with advance copies of approved news releases two (2) hours before they are issued to the media.
- g) Government boards and agencies are responsible for their own media relations, including issuing their own news releases and media advisories to the press. Each Minister's office will make best efforts to directly advise Regular Members in advance of releases that they are aware of being issued by boards and agencies.
- h) From time to time, the Government may redistribute news releases already issued by other governments or external organizations concerning events or initiatives the GNWT is involved in. As such releases are being redistributed after initial distribution by another organization, and are already publicly available, they will not be provided in advance to Regular Members.
- i) Standing Committees and Regular Members will provide the Premier's Office with copies of proposed news releases two (2) hours before they are issued to the media. This will allow Government to respond to potential requests for interviews and information in a timely fashion.
- j) In the event of a civil emergency or natural disaster, the Government has a responsibility to provide residents with accurate and timely information on the situation and Government emergency operations. This will be done in the form of emergency bulletins issued by the Press Secretary. Time is of the essence in emergency communication and Members will receive emergency bulletins at the same time as they are issued to media.
- k) MLAs representing communities or regions affected by an emergency will receive summary operational reports as information becomes available. Other MLAs will receive these reports on request. Reports will include information on the current status of the situation, GNWT departments responding and current public messaging. Reports will be provided by the responsible Minister for situations involving one department or the Minister of Municipal and Community Affairs for situations involving multiple departments. Reports will be for the information of Members only and all requests for additional information should be directed to the appropriate Minister.

3 Consultations with Standing Committees

- a) From time to time, Cabinet may wish to seek considered input from a Standing Committee on a proposed Government initiative, plan, activity or discussion paper. In these instances, Cabinet may provide a Committee with proposals, draft plans or discussion papers for the Committee's formal review and comment. Proposals, plans and discussion papers provided under this section are to be considered confidential and will be clearly identified as confidential and not for distribution nor subject to commentary or scrutiny on social media platforms or other public mediums. In addition, the confidentiality of any input received from Standing Committee will also be fully respected and will be considered strictly confidential by all parties involved.

- b) When seeking Standing Committee input under this section Cabinet will identify, with proper regard to both Committee calendars and to operational demands, a reasonable date by which a response is requested. If no written response is received by the identified date Cabinet may assume the Standing Committee's consent to proceed. Cabinet may consider a written request from a Standing Committee to extend the consultation period.
- c) Written input provided by a Standing Committee under the signature of the Chair or Deputy Chair shall reflect accurately the views of the Committee. While individual MLAs reserve the right to disagree with the written input of a Committee, only the Committee itself can amend the written input previously provided.

4 Materials Provided to Regular Members or Standing Committees For Information Only

- a) As a matter of course, Ministers may distribute information to Regular Members or Standing Committees for information only. Ministers will clearly identify materials distributed for information only so as not to confuse the distribution of that information with requests for feedback on confidential draft materials or proposals as addressed under the consultation section above.
- b) Regular Members or Standing Committees may request further information or briefings on materials distributed under this section. Such requests should be made in writing and directed to the appropriate Minister.

5 Advance Notices and Briefings Offered to Standing Committees

- a) From time to time, Ministers may wish to provide a Standing Committee with advance notice of a Government initiative or activity. Advance notices issued under this section will be clearly identified as notices and should be distinguished from requests for input addressed under the consultation section above.
- b) From time to time, Ministers may wish to offer a Standing Committee a briefing on a particular subject. Briefings offered under this section will be clearly identified as offers to brief and should be distinguished from requests for input under the consultation section above.

6 Public Briefings and Meetings with Standing Committees

- a) Where Ministers offer or agree to a request to brief a Standing Committee, the briefing will be held in public. If confidential matters are expected to be discussed in the course of the briefing, or if they arise after the briefing has commenced, the Minister or any member of the committee may request that the meeting or a portion of it be held *in camera*.
- b) The decision to hold all or a portion of a briefing *in camera* rests with the Standing Committee on the understanding that Ministers may be limited in terms of what information they can provide in public.
- c) For the purposes of this protocol, confidential matters include:

- i. the draft business plan or budget of a department or public agency prior to their introduction in the Legislative Assembly;
 - ii. a proposed policy initiative, legislative proposal or bill prior to its formal introduction in the Legislative Assembly;
 - iii. a personnel matter relating to an employee or statutory officer;
 - iv. concerns with the performance of a specific Minister; and
 - v. any other matter, where a member of the committee or the Minister identifies the matter as one which is, or would likely be, protected by privacy and data protection laws.
- d) A motion to hold all or a portion of a committee meeting *in camera* shall include the nature of the item to be discussed as well as the rationale for discussing the matter *in camera*.

7 Technical Briefings

- a) From time to time, Ministers may offer or Standing Committees may request a technical briefing to provide detailed information on a specific program, initiative or proposal.
- b) Technical briefings are briefings provided by senior government officials and technical experts. Ministers do not attend technical briefings,
- c) Standing Committees may request technical briefings on specific programs, initiatives or proposals.

8 Identifying Confidential Information

- a) When sharing information with a Standing Committee under this Process Convention, Cabinet will clearly identify which materials are, and which materials are not, being provided in confidence. When Cabinet has a plan to eventually publicly release information provided to a Committee in confidence, it will indicate when such a public release might take place and when the embargo on Standing Committee disclosure imposed under this Process Convention will be lifted.
- b) In the event that information provided to a Standing Committee in confidence under (a) is published, Cabinet may be required to speak publically on that information to address public concerns or media inquiries. In such circumstances, Cabinet will make every reasonable effort to provide advance notice to standing committees by the most efficient means available.

9 Tracking and Reporting on Regular Members' Requests

- a) Ministers will endeavour to ensure that written requests from Regular Members are responded to within five business days from the Minister's receipt of the request. Written request should be sent to Ministers via e-mail or letter, text messages and/or

social messaging will not be considered a written request. Should more than five days be required to address a Regular Member's request, Minister's will advise the Regular Member that more time is required, the reasons why more time is required and an anticipated response date.

- b) To ensure accountability and tracking, ministerial staff should be included in correspondence. When e-mailing the Minister, carbon copy (cc) the Ministers Executive Administrative Coordinator and the Ministerial Special Advisor.
- c) Detailed and lengthy inquiries about government policies and programs that are complex in nature may best be handled through other means such as Oral and Written Questions in the House, Committee briefings and the review of Legislative Proposals, Business Plans and Budgets.

10 Providing Committee Presentation Materials

- a) Ministers will provide copies of all presentation decks and related briefing materials to the appropriate standing committee at least three (3) business days prior to the scheduled date of delivery. The receipt of these materials will allow Committee Members to review information in advance and make optimal use of the limited time and resources available to Ministers and Committees, particularly during sittings of the Assembly.
- b) Occasionally a briefing is either offered or requested with very little or no advance notice. In such instances, the time requirement will be waived through mutual agreement of the parties involved.

11 Advance Notice of Ministerial and Standing Committee Travel

- a) The Premier will, whenever possible, provide a minimum of two weeks advance notice to Regular Members of any planned Ministerial travel or visits to constituencies outside of the capital.
- b) Ministers will, whenever possible, provide a minimum of two weeks advance notice of any public meetings being held by their departments in a Member's constituency.
- c) The Standing Committees will, whenever possible, provide a minimum of two weeks advance notice to the Premier's Office of any planned Committee travel to constituencies outside of the capital.
- d) A weekly activities advisory listing Ministerial travel will be prepared and circulated to all Members by the Premier's Office.

12 Advance Notice of Protocol Visits

- a) Regular Members will be advised of planned protocol visits to the NWT being organized by the GNWT by letter from the Premier as soon as details of proposed visits are confirmed.

13 Absences During Sittings of the House

- a) The Premier will provide a written summary of planned absences of Ministers that are scheduled to occur during a sitting of the Assembly to the Accountability and Oversight Committee on or before the first sitting day of each sitting.
- b) To the greatest extent possible, Ministerial absences during sittings of the House will be limited to obligatory federal/provincial/territorial (FPT) meetings.

14 Correspondence addressed to all Regular Members

- a) Government correspondence directed to all Regular Members will also be copied to the Clerk of the Legislative Assembly and other appropriate staff unless there are compelling reasons not to do so.

15 Invitations to Participate in Ministerial Travel

- a) When a Minister believes it is appropriate to involve a Regular Member in ministerial travel, the Minister shall invite the appropriate Standing Committee to nominate one of its Members to join the Minister in that travel.
- b) A Regular Member's travel expenses arising out of Ministerial travel will be paid by the Minister's Department and publicly reported through the Ministerial Travel Report.
- c) Regular Members accompanying Ministers on trips will be identified in the weekly Ministerial travel and activities advisory distributed to media.

16 In the Absence of an Appropriate Standing Committee

- a) During the period between the Legislative Assembly's official establishment of a Standing Committee on Accountability and Oversight and the Legislative Assembly's formal establishment of the Assembly's Committee structure, communications between the Executive Council and Regular Members should be directed through the Standing Committee on Accountability and Oversight.


Chair, Caucus

March 2, 2021
Date


Chair, Executive Council

March 2, 2021
Date


Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date

PROCESS CONVENTION

Priority Setting and Reporting

Preamble

The priorities determined at the beginning of a Legislative Assembly guide the work of all Members over the term of an Assembly. Although each Legislative Assembly builds on the legacy of previous assemblies as reflected in existing laws, policies, programs, and services, no Assembly can be bound by the decisions of a previous Assembly.

Consensus government is a form of responsible government. The Executive Council provides overall leadership and direction, and is responsible to the Legislative Assembly for its decisions. Regular Members of the Legislative Assembly review and monitor these decisions in order to hold the government to account. The Executive Council must maintain the confidence of the Legislative Assembly. This is the essence of responsible government.

Guiding Principles 6, 7, 8 and 10

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

Priority Setting

1. At the beginning of a Legislative Assembly, after the orientation of Members-elect, each Member shall be invited by the Clerk to make a public statement about what the Member believes should be the priorities for the forthcoming legislative term. These statements shall be transcribed and the transcriptions made public.
2. Following a public statement of priorities by each individual Member, the Clerk shall convene a meeting of Caucus in order for the Caucus to establish a collective statement of priorities for the forthcoming legislative term. In establishing this collective statement of priorities, Caucus shall take into account the transcribed statements of all members of the current Assembly as well as the Report of the Special Committee on Transition Matters tabled during the last sitting of the previous Assembly.
3. The Caucus statement of priorities will be tabled in the first session of the Legislative Assembly.

Establishing a Mandate

4. Following the conclusion of the Territorial Leadership Committee and the swearing-in of Members of the Executive Council, the Premier shall promptly convene a meeting of the Executive Council to discuss a draft mandate for the forthcoming legislative term. This discussion shall take into account the stated priorities of all Members of the current

Assembly as well as the Report of the Special Committee on Transition Matters tabled during the last sitting of the previous Assembly.

1. The Premier shall request that the Chair of Caucus convene a meeting of Caucus so that the Executive Council may present to Caucus a draft mandate for the forthcoming legislative terms and to solicit feedback from all Members on the draft mandate.
2. The Premier shall schedule a subsequent meeting of the Executive Council to consider feedback from all Members expressed in Caucus and to discuss possible amendments to the draft mandate.
3. Caucus and/or the Executive Council may meet as often as is necessary before the Executive Council is satisfied that the draft mandate is sufficiently responsive to the stated priorities of all Members and sufficiently feasible for implementation by government.
4. The mandate shall form the basis for the Commissioner's Address made at the opening of the second session of a Legislative Assembly.
5. The mandate of the Executive Council shall be tabled by the Premier during the second session of a Legislative Assembly.
6. Once tabled, the mandate of the Executive Council shall be referred to Committee of the Whole and debated, prior to adoption by the Legislative Assembly.

Reporting

1. The Executive Council will be held to account for its progress implementing the mandate through the debate of its budgets, oral questions, meetings of legislative committees, and meetings between the Premier and Regular Members.
2. The Executive Council shall maintain a report on progress on the implementation of the mandate and provide that report to the Standing Committee on Accountability and Oversight not less than once every 12 months. The same progress report shall also be made available to the public in a timely manner.
3. At the mid-point of a legislative term, the Legislative Assembly will be prorogued to allow for Caucus to discuss the priorities, the mandate and progress made towards implementation.
4. The Legislative Assembly will resume with a Commissioner's Address that will reflect any adjustments to the priorities or the mandate.
5. Not less than four months before the dissolution of an Assembly, the Legislative Assembly should establish, by motion, a joint Special Committee on Transition Matters to prepare a report with recommendations on the transition process and major priorities for consideration by the next Assembly.
6. Prior to the last sitting before dissolution of an Assembly, the Executive Council shall provide to Caucus a report on the actions undertaken to implement the mandate. This report will be tabled in the final sitting of a Legislative Assembly.
7. The report of a Special Committee on Transition Matters will be tabled in the final sitting of a Legislative Assembly.


Chair, Caucus

March 2, 2021
Date

Caroline Cochrane
Chair, Executive Council

March 2, 2021
Date


Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date



NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

Appendix 1

19TH LEGISLATIVE ASSEMBLY
TERRITORIAL LEADERSHIP
COMMITTEE

GUIDELINES AND PROCEDURES
FOR THE SELECTION

OF

SPEAKER, PREMIER AND
MINISTERS

OCTOBER 24, 2019

TERRITORIAL LEADERSHIP COMMITTEE
GUIDELINES AND PROCEDURES FOR SELECTION

1. THE CLERK AND THE SPEAKER-ELECT WILL INDICATE THE PROCEDURES TO BE FOLLOWED.
2. ADDRESS THE CHAIR AS MR. / MADAM CHAIR.
3. FOLLOW RULES OF A STANDING COMMITTEE OF THE HOUSE.
4. MEDIA AND PUBLIC ARE NOT TO TAKE PART IN THE PROCEEDINGS IN ANY WAY AND THE CHAIR WILL KEEP ORDER IN THIS REGARD.
5. THERE WILL BE NO POINTS OF ORDER OR POINTS OF PRIVILEGE PERMITTED.
6. MEMBERS ARE TO GOVERN THEMSELVES AS IF THEY WERE IN THE HOUSE OR COMMITTEE.
7. DRESS AND DECORUM TO BE THAT OF THE HOUSE.

TERRITORIAL LEADERSHIP COMMITTEE PROCEDURES SPEAKER SELECTION

- This election takes place in the Chamber of the Legislative Assembly.
- It is a secret ballot election.
- The Clerk of the Legislative Assembly presides over this election process.
- The Clerk asks all Members that wish to allow their names to stand for the Speaker position to rise in their places.
- If only one person is nominated, that person is acclaimed.
- If an election is required the names of the candidates are listed in alphabetical order on the ballot.
- In alphabetical order by surname, each candidate is permitted to make a five minute speech.
- A ballot box is placed in front of the Clerk's Table and two voting booths are placed on either side of the Speaker's chair.
- Members are permitted to cast their ballots by proxy.
- To do so, a Member must provide a letter to the Clerk, no later than one (1) hour prior to the casting of the first ballot, in which the Member's proxy is named.
- Members receive a ballot from the Clerk's Table.
- All Members proceed to vote.
- Once all Members have voted, the ballot box is taken to the Clerk's Office where the votes are counted.
- The bells are rung for five minutes to bring Members back in once the results are determined.
- A minimum of 10 votes is required for election.
- Vote totals are not announced.
- If one candidate does not receive the required number of votes, the name of the candidate having the fewest number of votes is dropped from the ballot and further voting takes place.
- If two or more candidates receive the fewest number of votes, all names remain on the next ballot.
- The Clerk announces the candidates who will remain on the ballot.
- Candidates may withdraw their names after the first ballot but must do so before the start of the second or subsequent ballots.
- Voting continues in the same manner until one candidate receives the required number of votes.
- The Clerk announces who the Members have elected as their Speaker-elect.
- The result of this election is formally ratified by a motion in the House.
- Candidates unsuccessful in a bid for this position are eligible to seek election for Executive Council positions.

TERRITORIAL LEADERSHIP COMMITTEE PROCEDURES PREMIER SELECTION

- This election takes place in the Chamber of the Legislative Assembly.
- It is a secret ballot election.
- The Speaker-elect presides over this election process and is granted all authority necessary to maintain order and decorum during the course of this process. Points of Order and Privilege are not allowed.
- Every Member, except the candidates themselves, are permitted to question the candidates for Premier. Each Member is allowed to ask one question directed to all candidates.
- The Speaker-elect, as the presiding officer, is not permitted to participate in the question and answer period.
- Once all Members have finished their questioning, the Speaker-elect calls on Members to commence voting.
- The names of the candidates are listed in alphabetical order on the ballot.
- A ballot box is placed in front of the Clerk's Table and two voting booths are placed on either side of the Speaker's Chair.
- Members are permitted to cast their ballots by proxy.
- To do so, a Member must provide a letter to the Clerk no later than one (1) hour prior to the casting of the first ballot, in which the Member's proxy is named.
- Members receive a ballot from the Clerk's Table.
- Members proceed to vote. The Speaker-elect is permitted to vote after all Members have voted.
- Once all Members have voted, the ballot box is taken to the Clerk's Office where the votes are counted. The Speaker-elect is not involved in the counting of the ballots.
- The bells are rung for five minutes to bring Members back in once the results are determined.
- A minimum of 10 votes is required for election.
- Vote totals are not announced.
- If one of the candidates does not receive the required number of votes, the name of the candidate having the fewest number of votes is dropped and further voting takes place.
- If two or more candidates receive the fewest number of votes, all names remain on for the next ballot.
- The Speaker-elect announces the candidates who will remain on the ballot.
- The names are listed in alphabetical order.
- Candidates may withdraw their names after the first ballot but must do so before the commencement of the second or subsequent ballots.
- Voting continues in the same manner until one candidate receives the required number of votes.

- The Speaker-elect announces who the Members have elected as their Premier-elect.
- The result of this election is formally ratified by a motion in the House.
- Candidates unsuccessful in a bid for this position are eligible to seek election to the Executive Council.

TERRITORIAL LEADERSHIP COMMITTEE PROCEDURES EXECUTIVE COUNCIL SELECTIONS

- This election takes place in the Chamber of the Legislative Assembly after the Premier-elect has been chosen.
- It is a secret ballot election for six (6) Members to the Executive Council.
- A “two-two-two” geographic balance in Executive Council governs all aspects of this selection process (i.e., two Ministers from the northern constituencies, two Ministers from the Yellowknife constituencies and two Ministers from the southern constituencies).

The northern constituencies include:

- Inuvik Boot Lake
- Inuvik Twin Lakes
- Mackenzie Delta
- Monfwi
- Nunakput, and
- Sahtu.

The southern constituencies include:

- Deh Cho
- Hay River North
- Hay River South
- Nahendeh
- Thebacha, and
- Tu Nedhé-Wiilideh

The Yellowknife constituencies include:

- Frame Lake
 - Great Slave
 - Kam Lake
 - Range Lake
 - Yellowknife Centre,
 - Yellowknife North, and
 - Yellowknife South.
-
- The Speaker-elect presides over this election process.
 - The Speaker-elect asks all Members that wish to allow their names to stand for a position on the Executive Council to rise in their places. This will be done on a geographic (North / Yellowknife / South) basis.

- The Speaker-elect announces, by geographic area, the list of candidates for a position on the Executive Council.
- If only six candidates are identified and the requirements for a North/Yellowknife/South geographic balance are met, those people shall be acclaimed as Ministers. If only two Members are nominated for a particular area, those Members shall be acclaimed.
- If an election is required, the names are listed in alphabetical order on the three separate ballots, one for the North, one for Yellowknife and one for the South.
- In alphabetical order, by geographical area and surname, each candidate is permitted to make a ten-minute speech.
- Each Member is allowed to ask one question directed to all candidates.
- Once all candidates have made their speeches, the Speaker-elect will call on Members to commence voting.
- A ballot box is placed in front of the Clerk's Table and two voting booths are placed on either side of the Speaker's Chair.
- Members are permitted to cast their ballots by proxy.
- To do so, a Member must provide a letter to the Clerk no later than one (1) hour prior to the casting of the first ballot, in which the Member's proxy is named.
- Members receive ballots from the Clerk's Table.
- Members proceed to vote. Members shall vote for two candidates on each of the three ballots. The Speaker-elect is permitted to vote after all Members have voted.
- Once all Members have voted, the ballot box is taken to the Clerk's Office where the votes are counted. The Speaker-elect is not involved in the counting of the ballots.
- Ballots are rejected if they are not marked with the required number of votes (i.e. two for the North, two for Yellowknife and two for the South).
- Vote totals are not announced.
- The bells are rung for five minutes to bring Members back in once the results are determined.
- If two candidates on any of the three ballots do not receive the required number of votes (10), the name of the candidate receiving the fewest number of votes is dropped from that ballot's list of candidates and further voting takes place as required.
- If two or more candidates on any of the three ballots receive the smallest number of votes on their respective ballot, all names remain on for the next ballot.
- If more than two candidates on any of the three ballots receive the required number of votes (10), the names of the two candidates receiving the most number of votes are deemed to be elected.
- The Speaker-elect announces the list of candidates who will remain on each of the three ballots. The names are listed in alphabetical order.

- Candidates may withdraw their names after the first ballot but must do so before the commencement of the second or subsequent ballots.
- Voting for the Executive Council selections continues until two candidates from the North, two candidates from Yellowknife, and two candidates from the South receive the required votes. It is possible that the results from one or two ballots may be decided before the other(s).
- Final results are not announced until all representatives, North, Yellowknife and South have been determined.
- The Speaker-elect announces who the Members have elected as their new Ministers-elect.
- The results of this election are formally ratified by a motion in the House.



PROCESS AND FORMAT FOR JOINT SUBMISSIONS TO THE EXECUTIVE COUNCIL AND FINANCIAL MANAGEMENT BOARD

CABINET SUBMISSIONS GUIDELINES

BACKGROUND

The Executive Council (Cabinet) is responsible for the overall management and direction of the executive branch of government, including setting government policy and priorities and providing overall direction to the public service.

The Financial Management Board (FMB) is responsible for the management and control of the financial, human and information resources of the Government of the Northwest Territories.

Both Cabinet and FMB also have specific authorities and responsibilities assigned through legislation, policy and directives.

Cabinet and FMB each have their own submission process and formats; however, at times issues arise which require direction from both Cabinet and FMB. On such occasions a joint submission to both bodies may be appropriate.

CRITERIA

A joint submission may be appropriate when:

- The submission addresses significant and interrelated policy, financial, organizational or human resource issues requiring both Cabinet and FMB direction;
- An initiative requires the approval authority of both Cabinet and FMB as established in legislation, Cabinet approved policy or FMB directive;
- A submission requires immediate direction from both Cabinet and FMB and the submission presents sufficient background and information for both Cabinet and FMB to make an informed decision; and/or

- The submission is prepared in response to earlier Cabinet or FMB direction to return to both Cabinet and FMB.

Note: Where it is judged more appropriate to make two separate submissions as opposed to one joint submission, each submission should reference that there is a concurrent FMB or Cabinet submission or that a subsequent FMB or Cabinet submission will be brought forward at a later date.

SUBMISSION PROCESS

1. Department(s) should consult with both Management Board Secretariat (MBS) and Cabinet Secretariat staff to ascertain whether it would make sense to develop a joint submission.
2. If a joint submission is considered appropriate, departmental staff can work with both FMB Analysts and Cabinet Secretariat Advisors in the development of the draft joint submission.
3. Joint submissions should be prepared in accordance with the format authorized by the Secretary to Cabinet and the Secretary to the FMB.
4. Once a submission has been approved, it should be signed by the Minister(s) responsible.
5. The signed electronic submission should be transmitted to the FMB Registrar, under the Minister's signature, to the Chair of the FMB and copied to the Secretary of the FMB. It is also electronically transmitted to the Cabinet Registrar, under the Minister's signature, to the Deputy Secretary to Cabinet.
6. The deadline for joint submissions is 10 working days before the next Cabinet or FMB meeting (5 working days for Information Items). Submissions not received before the deadline will be deferred until the following Cabinet/FMB meeting.

ASSESSMENT PROCESS

1. FMB Analysts and Cabinet Policy Advisors collaborate and develop a joint assessment, working with the department(s) to clarify and discuss outstanding issues.
2. The nature of the joint submission and respective workloads will determine whether the FMB Analyst or the Cabinet Policy Advisor will take the lead in drafting.
3. Joint assessments are submitted for approval and signature of both the Secretary to Cabinet and the Secretary to the FMB.

MEETING AND DECISION PROCESS

1. In general, joint submissions are placed on the Cabinet and FMB meeting agendas as deemed appropriate by the Chairs. Ministers are advised by one of the Chairs should the decision be made not to place a submission on the agenda.

- a. Depending on the nature of the issue, the Chairs may decide that the Cabinet or the FMB portion of the decision should be made first.
 - b. If the Cabinet decision(s) is made first, Ministers will then go into FMB to make the FMB decision(s), and vice versa.
2. Pending Cabinet and FMB direction, both Cabinet and FMB Records of Decision (RODs) will be produced. Each ROD will make reference to the other.
3. The discussion at the Cabinet meeting and the FMB meeting is captured in both the respective Cabinet and FMB minutes.



Premier and Chair of the Executive Council



PROCEDURES FOR APPOINTMENTS TO GNWT COMMITTEES, BOARDS, AND COUNCILS

CABINET SUBMISSIONS GUIDELINES

If the Minister or Commissioner has the authority to make an appointment to a Government of the Northwest Territories (GNWT) committee, board, or council under the relevant policy, legislation, or intergovernmental agreement, an Information Item is prepared by the Minister and submitted to the Executive Council. The Information Item should include:

- the name of the public committee, board, or council;
- the name of the appointee;
- the position to which they are appointed (i.e. Chairperson, Member);
- the term of the appointment;
- the group or community the person represents, if any;
- the appointee's qualifications for the position; and
- a list of the membership and terms of the current public committee, board, or council.

Community level committees may be appointed without going through the above nominating procedure (e.g. Community Social Assistance Appeal Committees). These appointments, however, must follow the legislated appointment procedures.

Once the meeting of the Executive Council takes place with the Information Item on the agenda, and there are no objections or specific direction given to the contrary, the Minister takes the appropriate steps to make the appointment.

If the Executive Council has the authority to make the appointment, the item should be submitted for Executive Council consideration in a Decision Paper format with the information, as listed above for an Information Item, included. Should Executive Council approval of the nomination be given, a Record of Decision is issued.

In some instances, the Legislative Assembly must approve nominations prior to the appointment being made. Where a formal Executive Council nomination is to be forwarded to the Legislative Assembly, the nomination may be obtained by means of a Decision Paper.



Premier and Chair of the Executive Council



EXECUTIVE COUNCIL PROCEDURES FOR SUBMISSIONS RECOMMENDING DIRECT APPOINTMENTS

CABINET SUBMISSIONS GUIDELINES

The following guidelines apply to direct appointments to the public service.

GUIDELINES

1. Cabinet approval is required prior to any direct appointments to the public service.
2. Cabinet approval for a direct appointment may be sought in the following circumstances:
 - (a) to support the career development of long-term employees (i.e., one with five or more years of service) who have demonstrated both ability and commitment to the organization;
 - (b) to support the advancement of an existing employee who has successfully completed formal training/preparatory assignment directly related to the proposed appointment;
 - (c) when a direct appointment would ensure that specialized and unique experience is retained within the public service;
 - (d) to resolve an undesirable work situation (e.g., marriage between two employees in a supervisor/subordinate relationship);
 - (e) to obtain necessary managerial, technical or operational expertise that is not currently available within the Government of the Northwest Territories;
 - (f) to support the career development of an affirmative action candidate from outside the public service where an open competition would not be an appropriate way of filling the position;
 - (g) to fill a position when recent recruitment practices for similar positions indicate that an open competition would be unproductive;
 - (h) to fill a position when there is reasonable and sufficient evidence to suggest that other candidates could not successfully compete with the proposed candidate;

- (i) to support the training and development of an individual where a position has been difficult to fill and the only potential candidate requires some time in a trainee capacity to reach the appropriate skill level;
 - (j) to provide for the training and development of an individual who has successfully screened in through a publicly advertised expression of interest process undertaken by the Department of Finance;
 - (k) to appoint, on a term basis to intern positions, northern graduates eligible under the Graduate Internship Program; or
 - (l) when alternative methods of staffing such as open competition and limited competition have been considered and determined to be inappropriate.
3. Direct appointments may also be requested for extraordinary circumstances such as:
- (a) appointment of individuals hired on a term basis for Ministerial staff positions;
 - (b) appointment of individuals when an outside agency or group becomes part of the public service and the status of existing staff needs to be confirmed;
 - (c) appointment of individuals to positions that provide direct administrative support to deputy heads; and
 - (d) appointment of individuals that provide dedicated policy support and analysis services directly to a deputy head.
4. The direct appointment Decision Paper format should be followed when seeking Cabinet approval for a direct appointment.
5. The Department of Finance's Policy Division is required to review the draft decision paper prior to it being submitted for Cabinet consideration.
6. For direct appointments of existing casual and term employees of the Government of the Northwest Territories, the Decision Paper seeking Cabinet direction should be considered by Cabinet at least one month prior to the employee's end date in their current position.



Premier and Chair of the Executive Council



FORMAT FOR EXECUTIVE COUNCIL SUBMISSIONS RECOMMENDING AUTHORIZATION TO NEGOTIATE CONTRACTS UNDER THE *NEGOTIATED CONTRACTS POLICY*

CABINET SUBMISSIONS GUIDELINES

PROBLEM

Please use the following text to concisely describe the issue for Cabinet:

Contract regulations pursuant to the *Financial Administration Act* provide that only Cabinet may enter into, or direct a contract authority to enter into, a contract outside of competitive or sole-source contracting processes.

[Contractor(s)], of [community], has requested a negotiated contract for [description of work and dates] arguing that a negotiated contract would provide opportunities to improve the skills and experience of residents and northern businesses or realize economic benefits for residents, the community or region, which would not be provided or realized through a competitive contract process.

PRINCIPLES

The following principles may be used in this section of the Decision Paper:

1. Negotiated contracts should contribute to the support and development of self- sustaining businesses at the local and regional level.
2. Goods and services obtained by the Government of the Northwest Territories through contracts shall be provided at a reasonable cost.

BACKGROUND

The background section should address:

- the decision to contract for the proposed services (reasons for contracting for the goods or services, history of comparable contracting, whether the proposed activities are identified in business plans, allocated budgets, etc.).

- events leading to the request that the contract be negotiated;
- the specific benefits to be achieved from negotiating the contract which would not be achieved through a competitive contract process;
- the proposed contractor's standing as a northern business as defined by the Business Incentive Policy;
- the proposed contractor's ability to fulfill the contract (past experience for similar work, etc.);
- a listing of all other GNWT contracts the proposed contractor has been awarded either through negotiated or public processes (i.e., term of the contract, type of service, etc.);
- the involvement, if any, of a subcontractor or partner who would not qualify as an eligible contractor under the Negotiated Contracts Policy;
- whether there are other businesses that might be interested if the contract was publicly tendered;
- compliance with, or requirements to make an exception to, any applicable Executive Council approved policies;
- compliance with, or requirements to make an exception to, any Executive Council approved intergovernmental agreement; and
- any other pertinent issues, such as whether the business is the only local business capable of performing the contract.

PROPOSAL SUMMARY

The following text can be used in the Proposal Summary section of the Decision Paper:

To waive the competitive contract process and authorize negotiations with [contractor(s)], of [community], for [description of work and dates] in order to achieve [identify specific benefits to residents, northern business, community or region].

FACTORS

1. Aboriginal and/or Treaty Rights and Indigenous Relations

Outline if there are provisions in agreements between the GNWT and Indigenous governments related to contracting that apply or if the contract supports the implementation of the United Nations Declaration of the Rights of Indigenous Peoples and/or the Truth and Reconciliation Calls to Action.

2. Political

Outline if relevant municipal corporation(s), Indigenous governments, and/or Members of the Legislative Assembly have provided their written support for the [contractor(s)] request to negotiate a contract for the work.

Attach any letters of support received.

Letters of support are not required under the *Negotiated Contracts Policy* but are instead a factor that Cabinet may consider in making their decision.

3. Financial

This section of the Decision Paper should address, at minimum:

- the total cost which the proposed contract should not exceed, how the total cost was estimated;
- the estimated cost of the contract if it were to go to a competitive process;
- whether or not the proposed contract can be supported within existing budget allocations; and

In the case of multi-year contracts, the financial section should also address:

- the estimated annual per unit costs; and
- where applicable, the basis upon which contract cost adjustments will be negotiated.

4. Specific Benefits

This section of the Decision Paper should identify all of the specific benefits, as defined in the *Negotiated Contracts Policy*, to be achieved as a consequence of negotiating the contract as opposed to using a competitive contracting process.

5. Interdepartmental

This section of the Decision Paper should identify engagement with other GNWT departments who may be interested in or affected by the decision.

CONSULTATION AND ENGAGEMENT

Include the results of any Aboriginal consultation or public or stakeholder engagement undertaken in the development of the Decision Paper.

PUBLIC RELATIONS

It is a requirement in the *Negotiated Contracts Policy* that, upon successful negotiation and award of the negotiated contract, the Minister will give public notice of the awarding of the contract and the reasons for negotiating the contract rather than using the competitive contracting process. Notices must be placed in the local newspaper serving the community in question. In the absence of a local newspaper, notices must be placed in a territorial newspaper available in the community in question. French language notices must be placed in the territorial French newspaper.

All notices must follow the GNWT Visual Identity Program guidelines.

RECOMMENDATIONS

Recommendations should use the following wording:

It is recommended that, in order to achieve [identify specific benefits to residents, northern business, community or region], that Executive Council:

- (1) authorize the Minister of [department] to enter into negotiations with the [contractor(s)] for the [description of work] in [community(ies)] for the [period] [with any option years if applicable];
- (2) further to 1), authorize the Minister of [department] to award the negotiated contract to the [contractor(s)] provided the amount of the negotiated contract does not exceed [total cost];
- (3) subject to 2), direct the Minister of [department] to give public notice of the awarding of the negotiated contract and the reasons for negotiating the contract rather than awarding the contract through a competitive contracting process;
- (4) subject to 2), direct the Minister of [department] to:
 - (a) upon the awarding of the contract, provide the Executive Council with a report on the contract that includes:
 - the scope of the contract;
 - the name of the contractor;
 - the location of contract;
 - the total contract value;
 - the total estimated premium (if applicable);

- the duration of contract;
- the fiscal year of contract (if multi-year);
- an analysis of the benefits achieved as a result of negotiating the contract that could not reasonably be expected to have been achieved if the contract had been awarded through a competitive process; and
- the significant extent, if known, to which the contract involved a subcontractor or partner not eligible under the *Negotiated Contracts Policy 11.26*; or

(b) in the event that negotiations fail to conclude in the awarding of a contract, advise the Executive Council that the negotiated contract will not be awarded.



Premier and Chair of the Executive Council

NOTICE OF AWARD

The Minister of [department] has awarded a contract to [contractor(s)] for the [description of work] in [community(ies)] for the [period] for an amount not to exceed [total cost].

This contract has been negotiated and awarded under the authority of the Executive Council so as to [identify specific benefits to residents, northern business, community or region].



WHEN A CABINET SUBMISSION MIGHT BE REQUIRED

CABINET SUBMISSIONS GUIDELINES

GUIDELINES STATEMENT

All Members of the Executive Council share, to varying degrees, collective responsibility for the management of government departments, boards, and agencies.

Ministers may carry out most activities related to their portfolios on their own authority and in accordance with established legislation and policies. However, there are situations in which Ministers must seek Cabinet direction before making certain decisions or taking certain actions. The convention of collective responsibility also means that there are times when a Minister should, at a minimum, advise the Executive Council of their plans before those plans are implemented, even when specific Executive Council direction is not required.

GUIDELINES

1. Certain decisions fall outside of an individual Minister's authority and can only be authorized by Cabinet or the Financial Management Board.

Examples of when a Minister is required to seek Cabinet direction include:

- proposals to establish, amend or repeal legislation;
- approval of drafts bills for introduction in the Legislative Assembly;
- proposals to recommend to the Commissioner the establishment, amending or repeal of Commissioner in Executive Council-approved policies;
- proposals to establish, amend or repeal Cabinet Operational Guidelines;
- proposed revisions to any item previously approved by Cabinet (e.g., negotiating mandates, terms of reference, etc.);
- actions requiring Cabinet authority under legislation; Cabinet-approved policy, rules or guidelines; or established process conventions, including:

- appointments to various statutory positions and boards (see the specific legislation for details);
 - approval to negotiate contracts; and
 - recommendations for direct appointments to the public service; and
 - Specific actions or decisions that Cabinet has directed be brought back to them for further consideration and/or approval.
2. Examples of when a Minister should consider the submission of a formal Discussion Paper, Ministerial Initiative or Information Item advising the Executive Council of their plans to make certain decisions or to take certain actions, or may consider seeking Cabinet direction, include:
- Any matter which involves the collective responsibility of all Ministers, such as:
 - major changes in a department's programs or services or the way they are delivered;
 - proposed actions or strategies that will have a significant impact on the public or other departments;
 - proposed GNWT position statements and communications on issues of territorial significance or in which there is widespread public interest;
 - Significant changes to a department, board or agency's internal structure or organization;
 - Consultation, engagement or communications activities likely to attract significant public attention or to create expectations that might inappropriately restrict future options;
 - Offers to brief Standing Committee on matters not yet reviewed or considered by the Executive Council;
 - Documents to be table in the Legislative Assembly, or presented to Standing Committees, that have not been previously provided to the Executive Council either through a formal submission or a Cabinet House Strategy agenda (this does not normally include annual reports and other documents of that type);
 - Board appointments that can be made under a Minister's individual authority (i.e. do not require Executive Council approval);
 - Potentially controversial matters that are entirely within the Minister's authority, but for which they would like to seek Cabinet advice; and
 - Situations where there is an intention to significantly vary or reverse an action that has been the subject of a previous Information Item.
3. A Minister is obliged to submit a formal Information Item to the Executive Council when the

Executive Council has:

- Issued specific direction to the Minister to return with further information regarding a particular matter (e.g., through a Record of Decision); and
 - Established a convention or guidelines governing the actions in question (e.g., Cabinet's Appointment Procedures).
4. There may be other situations in addition to those listed above when a Minister may need to seek Executive Council direction. Departments should consult with Cabinet Secretariat to determine if a Cabinet Submission might be required.



Premier and Chair of the Executive Council



ELECTRONIC EXECUTIVE COUNCIL SUBMISSIONS

CABINET SUBMISSIONS GUIDELINES

GUIDELINES STATEMENT

Cabinet Secretariat manages the Executive Council (Cabinet) submission process on behalf of the Executive Council. Formal Cabinet submission procedures have been developed to ensure that information required for informed decision making is efficiently developed and distributed and that there is a complete record of proposals submitted to, and decisions made by, Cabinet.

The Cabinet-approved conventions around the development, drafting and submission of Discussion Papers, Legislative Proposals, Decision Papers, Options Papers, Ministerial Initiatives and Information Items for a Minister's approval and signature remain. However, the following procedures apply to the electronic transmittal of submissions for the purposes of electronic Cabinet meeting packages.

GUIDELINES

1. Formatting Electronic Submission

All Executive Council submissions must follow the appropriate guidelines and templates for the submission type, as linked in the Executive Council Submissions Handbook (revised in 2023). Specific guidance on fonts, paragraph spacing and other formatting requirements are outlined in the Cabinet Secretariat's "Electronic Cabinet Submission Standards".

2. Transmittal of Electronic Submissions

Once the submission is signed by the Minister(s), an electronic copy of the signed submission, along with all of its attachments, must be submitted to the Deputy Secretary to Cabinet using the identified method outlined in the Cabinet Secretariat Registrar's "Electronic Cabinet Submission Standards." The Minister may wish to include a covering letter with the submission explaining any special handling considerations.

The signed submission will be printed by the Cabinet Registrar and a paper copy will be saved for the legal integrity of the Cabinet record.

3. Cabinet Decision Items Referred to Cabinet House Strategy

On occasion, submissions that must be considered on a timely basis are submitted for Cabinet consideration at a Cabinet House Strategy meeting. Ministers must ensure that any submissions to be considered are provided to Cabinet Secretariat as described above. This is required for the permanent Cabinet record and searchable database.

4. Submission Deadlines

The Deputy Secretary to Cabinet must receive the electronic signed submission for Ministerial Initiatives, Decision Papers, Legislative Proposals, Options Papers, and Discussion Papers **no later than ten working days before** the next scheduled cabinet meeting if they are to be considered at that meeting. For example: If the next Cabinet meeting is scheduled for the morning of Thursday, January 19, submissions must be received electronically by the Cabinet Secretariat **no later than midnight** of Thursday, January 5.

Information Items may be submitted no later than **five working days** before the next scheduled Cabinet meeting. For example: If the next Cabinet meeting is scheduled for the morning of Thursday, January 19, submissions must be received electronically by the Cabinet Secretariat **no later than midnight** of Thursday, January 12.

A list of meeting-specific deadlines are identified by Cabinet Secretariat and circulated to Ministers' and Deputy Ministers' offices, and Directors of Policy.

Submissions received after the deadline has passed will be held for the following Cabinet meeting.

In extraordinary circumstances, if a Minister wishes to make a submission after the submission deadline has passed, they must complete a late submission form to request the Premier's permission to bring that item to the next Cabinet meeting. The Minister must explain why a decision is urgently required, why the submission was not able to be provided by the deadline, and identify the potentially negative consequences of deferring the submission to the next scheduled meeting.

Prior to review by the Premier, the request must be sent to the Secretary to Cabinet and the Deputy Secretary to Cabinet, who will assess the request and make a recommendation to the Premier whether or not to approve. If the Premier approves the Minister's request, the Deputy Secretary to Cabinet will provide an electronic copy of the submission to Ministers prior to the upcoming Cabinet meeting.

5. Amending, Deferring or Withdrawing Submissions

Ministers may request that a previously signed submission be withdrawn from the draft agenda, deferred to another Cabinet meeting, or replaced with a revised submission. In each case the request must be addressed to the Deputy Secretary to Cabinet by the Sponsoring Minister. Requests by the Minister's staff or department to amend, defer or withdraw a submission signed by the Minister are not sufficient. If a Minister is requesting the addition or replacement of an attachment or part of a submission, a complete revised submission must be sent, including

the full submission and all attachments. This is necessary to preserve the integrity of the Cabinet record.

6. Confidentiality of the Electronic Cabinet Meeting Packages

The records distributed as part of the electronic Cabinet package are strictly confidential. Redistribution of Cabinet packages provided to Ministers' offices, departmental staff identified in the confidentiality statement, and Cabinet Policy Advisors to any person, including departmental staff, not identified in the confidentiality statement included in each Cabinet package is strictly prohibited.

7. Electronic Cabinet Package Storage and Destruction

Depending on the preference of the Minister, copies of the Cabinet package may be maintained in the Minister's electronic files until the term of the current Assembly is complete.

Because the Cabinet records of one Assembly are closed upon the election of the Cabinet of the next Assembly, all electronic and paper copies of Cabinet records must be purged from Ministers' offices during the transition from one Cabinet to the next. Ministers' staff are responsible for ensuring that electronic and paper copies of Cabinet records are stored in such a manner as to permit the effective destruction of those copies.

Legal destruction of the electronic package as described above is dependent upon the Cabinet Secretariat's receipt of the original signed submission.



Premier and Chair of the Executive Council

CABINET OPERATIONAL GUIDELINES

BOARD APPOINTMENTS

GUIDELINES STATEMENT

Pursuant to the Boards Policy (11.25), the Government of the Northwest Territories (GNWT) is committed to consistent and transparent processes for the nomination and appointment of individuals to public committees, boards and councils made, in whole or in part, by the Government of the Northwest Territories.

DEFINITIONS

The following terms apply to these Guidelines:

Boards Registry – a registry established pursuant to Board Policy (11.25) and mandated to support GNWT nominations and appointments to public committees, boards and councils.

GNWT Board – as defined by the Boards Policy (11.25).

Non-GNWT Board – public committees, boards and councils established by authorities other than the GNWT, to which the GNWT may make appointments or nominate appointees.

Responsible Minister – the Minister assigned, through legislation, policy, or intergovernmental agreement, the authority to make or recommend an appointment or nomination to GNWT or Non-GNWT Board.

AUTHORITY AND ACCOUNTABILITY

These Guidelines are issued under the authority of the Executive Council (Cabinet) pursuant to section 5(2) (iii) of Boards Policy (11.25).

- (a) The Premier will maintain a Boards Registry within the Department of Executive and Indigenous Affairs.
- (b) Responsible Ministers will advise the Boards Registry of:
 - upcoming vacancies for which the Minister will be responsible for making appointments or nominations;
 - any concerns which, in the Minister's opinion, should be brought to Cabinet's attention concerning a candidate's ability to effectively serve on a GNWT or Non-GNWT Board; and

**CABINET OPERATIONAL GUIDELINES
BOARD APPOINTMENTS**

- the acceptance or rejection of any of the Minister's nominations to a non-GNWT Board.
- (c) Responsible Ministers will ensure that all proposed appointments and nominations submitted for Cabinet's approval or information incorporate data required to assess the factors outlined under Provisions 1. and 2. below.
- (d) The Cabinet Secretariat will assess, in accordance with these guidelines, all proposed appointments submitted for Cabinet's approval or information.

Provisions

1. Candidate's Eligibility

When reviewing a submission for an appointment or nomination to a GNWT or Non-GNWT Board, Cabinet will consider:

- any specific competencies, credentials or endorsements essential for appointment to the vacant position;
- if and whether the proposed candidate has cleared any required reference checks, including, but not limited, to criminal records checks where appropriate;
- the proposed candidate's competencies, specific technical skills, or experience which led to the proposed appointment or nomination;
- where appropriate, the proposed candidate's ability to adequately represent the communities, regions and stakeholders directly impacted by the respective Board;
- the proposed candidate's past service on others Boards; and
- any other factors judged relevant by Cabinet.

2. The Nature of the Specific Board

When reviewing a submission for an appointment or nomination to a GNWT or Non-GNWT Board, Cabinet will consider:

- any particular qualifications or general experience required of the respective Board's members;
- the current makeup of the Board, including representational appointments (e.g., worker' representatives, Law Society representatives) and term expiries;
- where appropriate, equitable geographical representation on the Board;
- nominations from any authorized nominating authority (e.g., a Land Claim authority);

CABINET OPERATIONAL GUIDELINES
BOARD APPOINTMENTS

- the process followed in soliciting nominations for the relevant vacancy; and
- the extent to which the proposed candidate's appointment or nomination is supported by Members of the Legislative Assembly.

3. Boards Registry

The Boards Registry is mandated to:

- (i) maintain a publicly accessible and up to date listing of all GNWT and Non-GNWT Boards comprised, in whole or part, of members appointed or nominated by GNWT Ministers; which includes information on the Board's purpose or function, the current membership, duration of terms, appointment authority and Board contact information;
- (ii) propose for the Premier's consideration further appointment guidelines addressing, among other things, soliciting interest in serving on Boards, geographical representations, term limitations, requirements for criminal records checks, requirements for conflict of interest disclosures, restrictions on the appointment of public servants to GNWT and Non-GNWT Boards, and multiple appointments;
- (iii) publicly advertise vacancies of GNWT and Non-GNWT Boards;
- (iv) assist the Responsible Minister, as requested, with identifying and soliciting suitable candidates; and
- (v) assist the Cabinet Secretariat with assessing, in accordance with these guidelines, proposed appointments submitted for Cabinet's approval or information.



Premier and Chairman of the
Executive Council

18th LEGISLATIVE ASSEMBLY COMMITTEES-OF-CABINET

OPERATIONAL PROCEDURES

INTRODUCTION

Committees-of-Cabinet (COC) are established under the authority of the Executive Council (Cabinet) to:

- promote a corporate approach and interdepartmental collaboration on matters within a committee's terms of reference
- track related commitments in the government's mandate
- offer advice and recommendations to Cabinet and/or the Financial Management Board
- recommend when items should be referred to Members of the Legislative Assembly to ensure awareness or to provide for meaningful review and input on matters within a committee's terms of reference

Each COC's mandate and membership is detailed in their respective terms of reference.

Each COC may be supported by a committee(s) of Deputy Ministers as established by the Secretary to Cabinet. The supporting Deputy Minister committee(s) will be chaired by a Deputy Minister Lead (DM Lead), selected by the Secretary to Cabinet. For the purposes of COC operations, the DM Lead reports directly to the COC Chair.

The Office of Priorities & Planning, Department of Executive (OPP) provides policy and administrative support to the COCs, and the Cabinet Communications division provides communications support.

PROCEDURES

(1) Scheduling and Calling Meetings

- COC meetings may be called at the discretion of the Chair.
- COC Chairs are encouraged to establish annual meeting schedules.
- COC meetings are arranged and organized by the OPP at the direction of the COC Chair.

(2) COC Agendas

- COC draft agendas are normally organized under the following headings, although other headings may be required from time to time:
 1. Declarations of Conflict of Interest
 2. Approval of Agenda
 3. Summary of Previous Meeting
 4. Tracking Progress on the Mandate
 5. Discussions Items
 6. Information Items
 7. Items for referral to Cabinet
 8. Items for future consideration
 9. In Camera

(3) Approval of Agendas and Meeting Packages

- When a COC meeting has been called, the DM Lead, following consultation with the OPP, shall submit a preliminary draft agenda for the Chair's consideration.
- The Deputy Secretary to Cabinet, Priorities & Planning, will then circulate the draft agenda to COC Members along with a call for additional agenda items.
- The draft agenda and the call for additional agenda items will normally be issued at least seven working days in advance of a COC meeting.
- The OPP will prepare and distribute a meeting package based on the draft agenda approved by the Chair.
- COC meeting packages will be distributed as an e-binder by the Deputy Secretary to Cabinet, Priorities & Planning, normally at least three working days prior to a meeting.

(4) Submissions

- Materials intended for a COC meeting package should be submitted to the OPP no later than five working days before the COC meeting.
- Prior to distribution of a meeting package, COC Members or the DM Lead may seek the Chair's approval to include additional agenda items in the package.
- Only materials submitted with respect to the agenda approved by the Chair, and before the meeting package is distributed, will be included in the meeting package (see walk-ins below).

(5) Walk-ins

- COC Members may request, at the beginning of a COC meeting, the Committee's approval to amend the agenda to include additional items.
- Where an item is added to an agenda at a meeting, the sponsoring COC Member is responsible for the distribution of any relevant briefing materials, and copies shall be provided to the OPP to ensure a complete COC record.

(6) Withdrawing, Deferring or Replacing COC Submissions

- A COC Member can make a request to the Chair to withdraw, defer or replace earlier submissions at any time prior to the distribution of the meeting package.
- Where a meeting package has been distributed, a COC Member can request a change to the agenda to withdraw, defer or replace earlier submissions before the agenda is finalized and approved in a meeting.
- The OPP will only accept requests for withdrawals, deferrals or replacements that have been approved by the Chair.

(7) Meeting Attendance

- COC meetings are open to all Ministers, including Ministers not appointed to the COC.
- Quorum for each COC is established in each Committee's terms of reference.
- DM Leads are expected to attend respective COC meetings.
- Attendance at a COC meeting is open to Members of that COC's supporting Deputy Ministers Committee(s), but only those with departmental agenda items will be formally invited.
- The Ministerial Special Advisor to the COC Chair may attend at the Chair's discretion.
- The Deputy Secretary to Cabinet, Priorities & Planning and one OPP analyst will normally attend all COC meetings to record discussions and provide support.
- The Director of Cabinet Communications may attend any COC meeting.
- Each COC Chair retains the discretion to move a COC meeting in-camera.

(8) Witnesses

- COC Chairs and COC Members, with the approval of the Chair, may invite witnesses to make presentations to or answer questions from the COC.
- Witnesses will be invited to be present for particular agenda items and should not normally be present for other COC discussions.

(9) Meeting Summary

- Following each COC meeting, a meeting summary is drafted by the OPP.
- The draft meeting summary is submitted for review by the DM Lead, normally within three days of a COC meeting.
- After review by the DM Lead, draft meeting summaries are sent by the Deputy Secretary to Cabinet, Priorities & Planning for signed approval by the COC Chair.
- Signed meeting summaries are returned to the Deputy Secretary to Cabinet, Priorities & Planning, who will keep a COC record as well as submit to the Cabinet Secretariat for inclusion in the next available Cabinet meeting package.

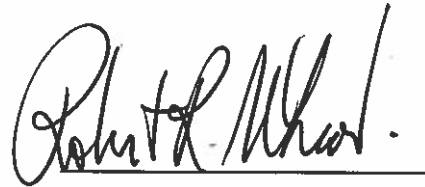
(10) Distribution list for COC Meeting Packages and COC related correspondence

- COC meeting packages should normally be distributed at least three working days before a COC meeting.
- The Deputy Secretary to Cabinet, Priorities & Planning, will distribute e-binders:
 - To:
 - ✓ COC Members
 - Cc:
 - ✓ DM Lead
 - ✓ Ministers Offices' staff
 - ✓ Secretary to Cabinet
 - ✓ Cabinet Communications
 - ✓ Any other individual(s) identified by the Chair

- Meeting packages will not normally be shared with invited witnesses.

(11) COC Meeting Package Confidentially

- COC meeting packages, materials prepared for presentation to COCs, and records of COC deliberations are all deemed to be Cabinet confidences.
- Unauthorized disclosure of COC records is prohibited under the *Access to Information and Protection of Privacy Act*.

A handwritten signature in black ink, appearing to read "John R. McLean", is written over a horizontal line.

Premier and Chairman of
the Executive Council



GOVERNMENT ACTIVITIES DURING A TRANSITION PERIOD

CABINET OPERATIONAL GUIDELINES

GUIDELINES STATEMENT

In a parliamentary democracy, government is expected to adhere to the principle of restraint during a Transition Period.

The reason for restraint is that, upon dissolution, there are no Members of the Legislative Assembly to hold the executive to account, and this is the essence of responsible government. Restraint should therefore be exercised by the government during the 28-day campaign period, as well as during the approximate three-week period required for the return of the writs, orientation, and the appointment of a new Executive Council.

During the Transition Period, routine matters of public administration still need to be carried out by the government. At the same time, an out-going Executive Council should avoid, whenever possible, authorizing activities which could reasonably be viewed as promoting decisions of the out-going Executive Council or presuming upon matters not yet decided by the in-coming Executive Council. This is generally known as the 'Caretaker Convention'.

This Guideline is intended to assist Ministers and their departments in deciding what activities may or may not be appropriate during a Transition Period.

DEFINITIONS

The following terms apply to these Guidelines:

Emergency	A present or imminent event that is affecting or could affect the health, safety, or welfare of people or is damaging or could damage property.
Transition Period	The period between the dissolution of one Legislative Assembly through to the appointment of members of the Executive Council for the next Assembly.

GENERAL PRINCIPLES

The following general principles should be considered before the government undertakes any action during a Transition Period:

- the duties of a Minister must continue to be fulfilled;
- in fulfilling one's duties, Ministerial decisions should be restricted to matters that are routine, necessary, non-controversial, emergency, or reversible by the next Minister, and/or identified in advance through the *Process Convention on Transition Stewardship*;
- decisions should be deferred on matters such as appointments (including recommendations for federal appointments), policies, new spending or other initiatives, announcements, negotiations, non-routine contracts, or grants and contributions, unless previously indicated through the *Process Convention on Transition Stewardship*, or in the event of an emergency or major unforeseen event; and
- there is a need to weigh, on a case-by-case basis, the necessity of any decision or action taken by a Minister against the potential public response to that decision or action, as well as the overall public interest in action or inaction.

DUTIES AND RESPONSIBILITIES

Members of the Executive Council are advised to be mindful that any activities undertaken as a minister during a Transition Period will be subject to public scrutiny.

At the same time, the public is advised that ministerial responsibilities continue through the Transition Period. Ministers have a duty to carry out their responsibilities until their appointment is revoked to enable the appointment of a new Executive Council. This ensures the stability of government through a Transition Period.

Deputy Ministers exercise a special responsibility during a Transition Period. This includes staying in contact with the Minister and advising the Minister on what activities may or may not be appropriate in respect of the principle of restraint. When advising their Minister, Deputy Ministers should consult the Secretary to Cabinet, who, where necessary, may consult the Ethics Counsellor.

In the event of an emergency or major unforeseen event, a minister, in consultation with the Premier, Secretary to Cabinet, and the Minister's Deputy Minister, may need to take a decision and/or address the public in order to serve the public interest.

GUIDELINES

Activities by government that respect the principle of restraint:

- holding meetings of the Executive Council, Financial Management Board, and Committees-of-Cabinet;
- taking routine and necessary decisions, including regulatory decisions;
- Ministers accepting an invitation to bring greetings to visitors and dignitaries or to attend a regularly scheduled public event, where the presence of a Minister would normally be expected as a matter of protocol;
- intergovernmental letters of congratulation, as would normally be expected as a matter of protocol;
- having speeches to be given by a Minister as a Minister (not as a candidate) reviewed in advance by the Director of Government Communications and the Office of the Premier, in order to ensure that public statements respect the principle of restraint;
- public servants participating in ongoing intergovernmental negotiations;
- public servants participating in ongoing contractual negotiations; and
- mass communication of government information primarily concerned with health, safety, or eligibility for programs and services.

Activities by government that offend the principle of restraint:

- Ministers participating as Ministers in public events, where the Minister is not invited or expected to perform any official duty;
- addresses by Ministers, in their capacity as Ministers, to community or special interest groups or associations, that are unscheduled or scheduled after the beginning of the Transition Period;
- using for partisan or campaign purposes any government resources available by way of a Minister's portfolio (this includes confidential information, office space, equipment, communication devices, staff, or services);
- Ministers asking exempt staff to undertake any non-government work, especially for campaign or partisan purposes or using public resources for non-government work;

- Ministers posting to social media any statements related to one's Ministerial role or activities;
- providing any unauthorized or confidential government information to any candidates or campaign staff (or any other person), including other Ministers and former Members of the recently dissolved Legislative Assembly; and
- Ministers pronouncing on any policy positions on behalf of the government, other than those already approved by the Cabinet and previously made public.

PUBLIC ENGAGEMENT

In order to be consistent with the principles of restraint and good public administration, public engagement by government should never be a forum for election campaigning. Public and stakeholder engagement activities, including planning sessions, community meetings, surveys, and other activities to collect public or stakeholder input should not begin or continue to be held or deployed during the Transition Period.



Premier and Chair of the Executive Council



DISCLOSURE OF INFORMATION DURING A TRANSITION PERIOD

CABINET OPERATIONAL GUIDELINES

GUIDELINES STATEMENT

The Guiding Principles of Consensus Government, the Process Conventions informing the relationship between the Executive Council and the Standing Committees, and the *Access to Information and Protection of Privacy Act* all address the sharing of information amongst and between the Executive Council, Standing Committees, Ministers, Regular Members and the public. The Executive Council recognizes that, during a Transition Period, government will continue to share information, but the Executive Council also recognizes the importance of ensuring that no Minister, former Regular Member of the Legislative Assembly (MLA) or candidate is granted inappropriate access to information which could be used to further their electoral advantage.

DEFINITIONS

The following terms apply to these Guidelines:

- Candidate:** A candidate in a general territorial election, including Ministers and former MLAs standing for re-election. This also includes the members of a candidate's campaign team.
- Transition Period** The period between the dissolution of one Legislative Assembly through to the appointment of members of the Executive Council for the next Assembly.

GUIDELINES

1. Public Access

The public has a right to access information held by Government of the Northwest Territories departments, boards and agencies (i.e., public bodies).

This right of access is limited only by the need to protect personal privacy as well as a few specific exceptions set out in territorial and federal legislation. The right is not and cannot be limited by an individual's decision to stand for election.

2. Information Requests from Candidates

During a Transition Period, a candidate's request for information directed to a Minister should be redirected by the Minister to the appropriate Deputy Minister(s).

A candidate's request for information should be handled by public servants as would a similar request made by any member of the public.

A candidate's request for a private meeting with public servants to discuss established government programs, services and other public matters should be handled as would a similar request from any member of the public.

3. Invitations To Meetings

A candidate's invitation to a public servant to attend a campaign meeting in the public servant's official capacity should be declined.

A request from an Indigenous, municipal or federal government, or an Indigenous or non-government organization, for public servants to participate, in an official capacity, in a private meeting scheduled to take place during a Transition Period should be handled as would a similar request to participate in a private meeting outside of a Transition Period.

A public servant should exercise discretion when invited to attend, in an official capacity, public meetings held during a Transition Period. Though staff may have reason to expect that there may be attempts to "politicize" public meetings during a Transition Period, public servants have an obligation to serve the public and should not necessarily decline invitations that would normally be accepted outside a Transition Period.

4. Other Considerations

Public servants shall not advise other candidates about information requested by one candidate.

During the Transition Period, public servants shall not extend to former MLAs or Ministers, other than their own Minister, any greater access to departmental information than they would extend to other candidates or the general public.

During the Transition Period, public servants should not extend to former public service colleagues any greater access to departmental information than they would extend to candidates or the general public.

Though candidates and the general public have the right to access information readily available to a public body, they do not have the right to ask that research be undertaken on their behalf.

5. Other Elections

These Guidelines on the disclosure of information during a Transition Period should also guide Ministerial and public servant decisions on the disclosure of information to candidates during a territorial by-election, a federal election, a Northwest Territories (NWT) municipal election, and an NWT Indigenous government election.

6. Public Servant Participation

Public servants should ensure that any personal involvement in political activities complies with the political activity provisions of the *Public Service Act* and the *Government of the Northwest Territories Public Service Code of Conduct*.

7. Interpretation

During a Transition Period, questions regarding these Guidelines should be referred to the Secretary to Cabinet.

A handwritten signature in blue ink, reading "Caroline Cochrane", is positioned above a horizontal line.

Premier and Chair of the Executive Council



GOVERNMENT COMMUNICATIONS AND ADVERTISING DURING A TRANSITION PERIOD

CABINET OPERATIONAL GUIDELINES

GUIDELINES STATEMENT

The Executive Council recognizes that, though the routine business of government must continue during a Transition Period, government Advertising activities could possibly provide incumbent Ministers with an unreasonable electoral advantage during a Transition Period. For this reason, Ministers and their departments will curtail publicly-funded advertising during the Transition Period and limit advertising to:

- the issuance of public notices for legal purposes;
- informing the public of essential government services or advising the public of any Emergency related to health, safety or the environment; and
- posting employment or staffing notices.

DEFINITIONS

The following terms apply to these Guidelines:

Advertising:	Any message conveyed in the Northwest Territories (NWT), Canada or internationally by the Government of the Northwest Territories (GNWT) for placement in media, including but not limited to newspapers, television, radio, billboards, cinema and on mobile devices, Internet, social media and any other digital medium.
Emergency:	A present or imminent event that is affecting or could affect the health, safety or welfare of people or is damaging or could damage property.
News Release:	An official statement or announcement issued by the GNWT's Press Secretary to the media and the public that includes a quote from a Minister.

Out-of-home Advertising:	Any type of advertising or promotional messaging that is displayed outside of a person's home, typically in public spaces such as billboards, transit systems, street furniture, and digital signage. In the NWT context, posters and brochures are both considered Out-of-home advertising.
Public Service Announcement:	A public service announcement is a message designed to inform and educate the public about a specific topic or issue that is issued to the media through the GNWT's Press Secretary that does not include a quote from a Minister.
Transition Period:	The period between the dissolution of one Legislative Assembly through to the appointment of members of the Executive Council for the next Assembly.

GUIDELINES

1. Advertising (General)

Advertising of policies will be discontinued during the Transition Period, except in cases of an Emergency.

This restriction does not apply to Advertising required to continue the administration of essential public programs or to Advertising required to ensure the health and safety of the public.

2. News Releases and Public Service Announcements

News Releases will be discontinued during the Transition Period, except in cases of an Emergency. Public Service Announcements may continue as a part of routine promotion of programs or services.

3. Employment Postings

Advertising for job postings is permitted during the Transition Period.

4. Tenders

Advertising tenders and requests for proposals should, where operational demands permit, not be undertaken during the Transition Period.

5. Legal Advertising

Routine legal notices may be advertised during the Transition Period.

6. Goodwill Advertising

Advertising that promotes special causes, events or declarations, or offers of congratulations from the government or individual Ministers to individuals or groups is prohibited during the Transition Period.

7. Out-of-home Advertising

Out-of-home Advertising, including brochures, publications, posters, billboards and signs already in place and available to the public, that do not include **name, voice or image of a member of the legislative assembly, member of the Executive Council, or a declared candidate for territorial office**, may continue to be available to the public. No new out-of-home advertisements are to be published during the Transition Period.

Distribution of publications and brochures is limited to meeting direct requests from the public. No mass distribution or mailing should be undertaken during the Transition Period unless primarily concerned with health, safety, or eligibility for programs and services.

8. Digital Advertising and Social Media

During the Transition Period, digital advertising is prohibited, including any type of advertising or promotional messaging to be displayed on mobile devices, the internet, social media, or any other digital medium (unless it is being used to advise the public of an emergency related to health, safety or the environment).

However, departments are permitted to post content to departmental and/or flagship social media accounts if that content centers around how to access government programs and services. Departments should refrain from posting purely promotional material and should be limited to informing the public about eligibility for and instructions on how to access government services or advising the public of any emergency related to health, safety, or the environment.

9. Promotional Giveaways

Distribution of promotional giveaways within the Northwest Territories will be discontinued during the Transition Period. This includes the distribution of promotional giveaways at NWT trade shows, conferences, community meetings, or other promotional events occurring during the Transition Period.



Premier and Chair of the Executive Council



PROCUREMENT ACTIVITIES DURING A TRANSITION PERIOD

CABINET OPERATIONAL GUIDELINES

GUIDELINES STATEMENT

There are restrictions on procurement activities during a Transition Period.

During a Transition Period, departments are to curtail publicly funding advertising except for the following:

- the issuance of public notices for legal purposes;
- posting employment or staffing notices;
- informing the public of essential government services; or
- to advise the public of any emergency related to health, safety or the environment.

DEFINITIONS

The following terms apply to these Guidelines:

Transition Period The period between the dissolution of one Legislative Assembly through to the appointment of members of the Executive Council for the next Assembly.

GUIDELINES

1. Advertising tender and requests for proposal should, where operational demands permit, not be undertaken during a Transition Period. This includes advertising on the GNWT Contracts Opportunities website.
2. Deputy Ministers may approve Sole Source Procurements in accordance with Financial Administration Manual (FAM) guidelines and the Government Contract Regulations.

3. The Procurement Shared Services division of the Department of Finance should be contacted to schedule upcoming procurement requirements, to ensure adequate time to prepare the procurement event, advertise and award.
4. Departments should consider scheduling procurements after the first session of the next Legislative Assembly following a general election.
5. The Procurement Shared Services division of the Department of Finance should be contacted to discuss how to access goods and services during a transition period under existing Standing Offer Agreements or Supply Services Agreements.
6. In advance of a transition period, the Procurement Shared Services division of the Department of Finance shall communicate specific cut-off dates relative to a general election (Appendix A).
7. If public servants have any questions about procurement in advance of or during a Transition Period, they should contact their departmental policy staff or the Secretary to Cabinet.



Premier and Chair of the Executive Council

Appendix A

Procurement Planning Table: 2023 Transition Period

	Initiation Requisition Cut-Off Date (RS received by PSS)	Advertising Cut-Off Date
Tenders Services		
Air Charters (25k and over)	August 21, 2023	August 25, 2023
Services (over 25k to under 250k)	August 11, 2023	August 15, 2023
Services (over 250K)	July 17, 2023	August 1, 2023
Tenders Goods		
Goods (over 25k to under 250k)	August 11, 2023	August 14, 2023
Goods (over 250k)	August 1, 2023	August 8, 2023
RFPs/RFQs		
Goods/Services (over 25k to under 250k)	August 4, 2023	August 14, 2023
Goods/Services (over 250k)	July 14, 2023	August 1, 2023

All competitive advertisements to close prior to August 31, 2023.

The above dates are subject to:

- Volume of work; and
- Clients meet turnaround timeframes for approvals.

Executive Council

Guidelines for Selecting Names for Government of the Northwest Territories Owned Office Buildings

If and when the Government of the Northwest Territories (GNWT) elects to name a GNWT owned office building, the promotion of the Northwest Territories' heritage and culture will be a primary consideration.

Definition

Office Building – A building designed to house government offices. For the purposes of these guidelines, "office building" does not include GNWT owned buildings designed primarily to deliver programs and services to the public (e.g., schools, health centres, airports).

Guidelines

- (1) Cabinet approval is required to name a GNWT owned office building.
- (2) When naming a GNWT owned office building, Cabinet will consider whether the proposed name reflects the historical, cultural, and geographic significance of the Northwest Territories.
- (3) GNWT owned office buildings may be named in honour of deceased persons who have made significant contributions to public life and the well-being of territorial residents.
- (4) GNWT owned office buildings will not be named in honour of living persons.
- (5) Cabinet may approve a public engagement process to solicit naming ideas for GNWT owned office buildings.



Premier and
Chairman of the Executive Council

CABINET OPERATIONAL GUIDELINES

LEGISLATIVE PROPOSAL DEVELOPMENT AND DISTRIBUTION

STATEMENT

Legislative proposals, including draft legislative proposals, are protected by Cabinet privilege and, in accordance with the *Access to Information and Protection of Privacy Act*, are not publicly disclosed for a minimum of 15 years from the date of creation.

Though legislative proposals may not be publicly disclosed, in many cases a legislative proposal's development could benefit from input received from indigenous governments, other public governments, professional organizations, stakeholders, non-government organizations and individuals. Engagement with non-GNWT parties could extend to sharing the substance of a legislative proposal even when the disclosure of the same legislative proposal is prohibited under law.

DEFINITIONS

The following terms apply to these Guidelines:

Bill: a proposed law introduced to the Legislative Assembly for its approval. Bills are legal instruments drafted by legislative counsel.

Drafting Instructions: instructions issued to the Legislation Division, Department of Justice consistent with a legislative proposal approved by the Cabinet.

Legislative Proposal: a Cabinet submission prepared for a Minister's signature and presentation to the Cabinet. Legislative proposals are designed, in accordance with Cabinet conventions and the Cabinet Submissions Handbook, to provide the Cabinet with the information it needs to make an informed decision on a Minister's policy rationale for establishing new, or amending existing, legislation. Legislative proposals are not to be confused with bills.

Provisions

These Guidelines attempt to clarify opportunities for public participation in the development of NWT legislation.

1. Identifying the need for legislative action

Non-GNWT parties are often involved at the very earliest stages in identifying a need to establish, amend or repeal legislation. The need to establish, amend or repeal legislation could be identified internally, or through intergovernmental discussions, public petitions, interest group lobbying, appeals to elected officials, and feedback resulting from GNWT led consultations.

2. Development of a policy rational

Regardless of where the need for legislative action was identified, if the decision is made to proceed, the responsible department will often seek the input of interested individuals in the development when detailing and explaining the reasons for establishing, amending or repealing legislation (i.e., defining the policy rational).

3. Development of a legislative proposal

A legislative proposal is a specific type of Cabinet submission drafted in accordance with established formats and procedures. As mentioned above, NWT law prohibits the disclosure of both draft and signed legislative proposals; but when engagement with a non-GNWT party is deemed appropriate the substance of a legislative proposal may be shared during the legislative proposal's drafting. Engagement with any non-GNWT party in the development of a legislative proposal should be noted in the legislative proposal.

4. Finalization and submission of a legislative proposal

Only GNWT Ministers can finalize, sign and submit a legislative proposal for Cabinet consideration.

5. Referral of signed legislative proposals

Signed legislative proposals submitted to Cabinet are referred to the Standing Committees of the Legislative Assembly in confidence and in accordance with the *Process Convention on Standing Committee Review of Legislative Proposals*.

6. Cabinet deliberations on legislative proposals

Following Standing Committee review, legislative proposals are scheduled for Cabinet consideration in accordance with established Cabinet conventions.

7. Approved legislative proposals

Cabinet approved legislative proposals provide the policy basis for the drafting of a bill.

8. Drafting legislation

Draft bills submitted to Cabinet are also protected by Cabinet privilege; however, once Cabinet has issued the policy direction to draft a bill the disclosure of a bill under development to a non-GNWT party is permitted when disclosure is deemed necessary to obtaining a non-GNWT party's meaningful input.

9. Submission of draft bills

Only GNWT Ministers can submit draft bills for Cabinet approval. Draft bills approved by Cabinet are introduced in the Legislative Assembly by a sponsoring Minister.



Premier and Chairman of the
Cabinet

EXECUTIVE COUNCIL

CABINET OPERATIONAL GUIDELINES ON USE OF THE TERMS "INDIGENOUS" AND "ABORIGINAL"

GUIDELINES STATEMENT

The Government of the Northwest Territories (GNWT) is committed to demonstrating respect to Indigenous governments and organizations in a way that is coordinated and consistent with the Principles of Engagement stated in *Respect, Recognition, Responsibility: The Government of the Northwest Territories (GNWT) Approach to Engaging with Aboriginal Governments*. The Executive Council recognizes the shift in terminology from "Aboriginal" to "Indigenous." For this reason, the Executive Council prefers the use of the term "Indigenous," as appropriate in context, in all engagement and communications with, and in reference to, Indigenous governments, organizations and peoples.

GUIDELINES

1. "Indigenous peoples" is the preferred term that collectively refers to First Nations, Inuit and Métis of the Northwest Territories. Examples of the correct use of the term "Indigenous:"
 - Indigenous peoples
 - Indigenous governments and organizations
2. When referring to a specific Indigenous government, organization or people, use the preferred name of that specific Indigenous government, organization, or people.
3. When referring to specific legislation, regulations, or agreements, always use the terminology found in that specific legislation, regulation or agreement.
4. When referring to asserted or established Aboriginal and/or Treaty rights under section 35 of the *Constitution Act*, 1982, the preferred form for this phrase is "asserted or established Aboriginal and/or Treaty rights." Do not use "Section 35 rights" or "Indigenous rights."
5. The term "Indian(s)" should be avoided, unless it is part of a historical reference.
6. When referring to the GNWT's Affirmative Action Policy, the terms "Indigenous Aboriginal Persons," "Indigenous Non-Aboriginal Persons," and "Non-Indigenous Aboriginal Persons" have a specific definition and should only be used in reference to the Affirmative Action Policy.



Robert R. McLeod
Premier

CABINET OPERATIONAL GUIDELINES

LAND WITHDRAWALS

GUIDELINES STATEMENT

Land withdrawals, established by Order through legislation, may be used by the Government of the Northwest Territories to prevent grants or dispositions of public land in situations where the establishment of new interests would interfere with a significant land management objective or negotiation.

PROVISIONS

1. Criteria for Land Withdrawals

Cabinet may consider recommending the withdrawal of public land, or the renewal or amendment of existing land withdrawals, in circumstances where restricting the grant or disposal of new interests in public land would facilitate a government negotiation or initiative, including:

- a) the selection of land to fulfill the terms of an Aboriginal land, resource or self-government agreement;
- b) the approval of a regional land use plan or amendments to an existing regional land use plan by all parties;
- c) a transfer of land between the Government of the Northwest Territories and the Government of Canada or an Indigenous government;
- d) implementing or planning for the conservation or management of natural or heritage resources or wildlife habitat, including the establishment of a protected area, wildlife reserve or park;
- e) the remediation of public land; or
- f) any other circumstances where restricting the grant or disposal of public land is shown to be in the public interest.

2. Cabinet Submissions

The Minister of Lands is responsible for recommending to Cabinet the establishment, renewal or amendment of land withdrawals.

3. Term

a) Interim land withdrawals

A withdrawal of public land is normally a temporary, interim measure intended to facilitate the completion of a government initiative or objective with a term that directly reflects the objective it facilitates. The expiry of an interim land withdrawal may be conditional on some specified agreement or instrument coming into force, or occur on a specified calendar date.

Conditional expiry: Whenever possible, the expiry of an interim land withdrawal must be linked to the coming-into-force of an agreement or instrument that renders the prevention of new grants or dispositions unnecessary. A specific date for such conditions is not necessary, but the agreement or instrument must be both sufficiently specific and imminently anticipated. Examples include, but are not limited to:

- i. The coming-into-effect of Aboriginal land, resource and self-government agreements, or other agreements meant to fulfil the terms of such, that have been signed or agreed to in principle by negotiating parties;
- ii. The coming-into-force of territorial statutory instruments, such as a regulation establishing a protected area;
- iii. The coming-into-effect of an instrument formalizing the transfer of administration and control to another government; or
- iv. The imminent coming-into-effect of other instrument or agreement that would make the continued prevention of grants or dispositions of public land no longer necessary or desired.

Date expiry: If a specific, imminent agreement or instrument cannot be sufficiently identified, an interim land withdrawal may be set to expire on a specific date. In such cases, interim land withdrawals will be established or renewed for no less than 2 years and no more than 5 years at a time.

b) Indefinite land withdrawals

Cabinet may consider indefinite withdrawals of public land where there is the intention and need to indefinitely prevent grants and dispositions for a specific purpose and alternatives tools to do so have been deemed inappropriate.

4. Interpretation

The establishment of a land withdrawal in and of itself should not be interpreted as a statement regarding rights to the land nor a Government commitment to a particular outcome or matter under negotiation.

5. Review

The Minister of Lands will undertake periodic reviews of existing land withdrawals in consultation with other Ministers to ensure they continue to fulfil the purpose of facilitating a government objective and remain consistent with these Guidelines.



Premier and Chair of the
Executive Council

Dated: February 01, 2022

CABINET OPERATIONAL GUIDELINES

PUBLISHING PROPOSED REGULATIONS

GUIDELINES STATEMENT

The Government of the Northwest Territories' (GNWT) *Open Government Policy 11.54* commits the GNWT to Open Dialogue through public engagement on government decision-making.

The purpose of this Operational Guideline is to provide guidance for GNWT Departments and Agencies with respect to the publishing of proposed regulations, including authority for decisions about whether a proposed regulation should be published, criteria for making decisions regarding publishing regulations, and procedures for publishing regulations. It does not create legal rights or obligations. This document also does not preclude Departments and Agencies from more comprehensive or extensive engagement with stakeholders relating a specific regulatory project, nor does it prevent Departments and Agencies from using their traditional model(s) of stakeholder engagement.

DEFINITIONS

The following terms apply to these guidelines:

Emergency – a present situation or condition that requires urgent action to prevent or limit damage to the safety or health of people or the environment.

Responsible Department or Agency – the GNWT Department or Agency responsible for administering the Act under which the proposed regulation is being made. The list of Responsible Departments and Agencies for GNWT legislation can be found at: <https://www.justice.gov.nt.ca/en/files/legislation/administering-departments.en.pdf>

PROVISIONS

1. Authority for deciding whether a proposed regulation should be published

The decision to publish a proposed regulation rests with the Minister of the Responsible Department or Agency.

2. Criteria for determining when a proposed regulation should be published

Departments and Agencies may wish to use the following criteria, amongst others, to determine whether a proposed regulation should be published:

- Does the proposed regulation make significant changes to the regulatory system that currently exists, or does it introduce a new system?
- Does the proposed regulation change the way in which a person can access a program or service offered by the government?
- Does the proposed regulation relate to an area of apparent public interest?
- Does the proposed regulation impact who can participate in a certain activity?
- Could the proposed regulation affect the efficiency or viability of a business?
- Could the proposed regulation negatively affect the interests of individuals?
- Does the proposed regulation impose a new fee or fine, or substantially increase an existing fee or fine?

3. Proposed regulations that do not need to be published

There are considerations for why a proposed regulation would not need to be published. These include:

- Proposed regulations made by an authority other than a Minister or Executive Council (or the Commissioner-in-Executive Council acting on their recommendation).
 - These would include regulations or rules made under the authority of a statute by a professional body, a Court, the Legislative Assembly's Board of Management, or an independent officer of the Legislative Assembly.
- Proposed regulations made in response to an emergency.
- Proposed regulations made to respond to a specific event or activity.
 - These would include community plebiscite regulations and temporary prohibition orders under the *Liquor Act* or the *Cannabis Products Act*.
- Proposed regulations made to implement a legally binding agreement, or to facilitate the negotiation of a land claim agreement, including land withdrawal orders.
- Proposed regulations that are minor or administrative in nature, including those made to correct errors in an existing regulation.

4. Procedures for publishing proposed regulations

The Minister for the Responsible Department or Agency provides notice to the Committee Chair of the relevant Standing Committee that a proposed regulation is being published.

Proposed regulations are published on a website(s) maintained by the GNWT. Departments and Agencies that wish to publish their draft regulations online for public engagement are responsible for ensuring the information appears on a central GNWT webpage.

A proposed regulation must provide contact information for a position (or a general email address) within the Responsible Department or Agency where comments can be directed. Departments and Agencies are responsible for determining the period of public engagement; the public engagement period should be no less than 30 days.

A proposed regulation does not need to be published more than once, regardless of whether it is altered after publication. All regulations are published in Part 2 of the *Gazette* after its enactment.

5. Finalizing proposed regulations

When finalizing a proposed regulation, all written comments are to be considered, but do not have to be incorporated. Departments and Agencies may provide a rationale for why a suggested change to the proposed regulation was incorporated (or not) into the final regulation, but are not required to do so.



Premier and Chair of the
Executive Council